PART 1

STAFF REPORT – NOVEMBER 10

AND

ATTACHMENTS 1 – 5

10A

City of Lafayette Staff Report

For: City Council

By: Christine Sinnette, Senior Planner

Date Written: November 3, 2008

Meeting Date: November 10, 2008

Subject: Appeal by Richard Holt of the Planning Commission denial of:

HDP47-07 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING: Request for a hillside development permit pursuant to section 6-2065(a)(8) of the Lafayette Municipal Code (LMC) for site and massing determination for a new, two-story single-family residence ~~3,507~~ ~~3,323~~ 2,898 gross square feet in size on a vacant 26,340 square foot parcel within the Hillside Overlay District, located at the intersection of Sierra Vista Way and Sessions Road (Tract 5332 Lot 66); APN 232-052-019.

V17-08 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING: Request for a variance pursuant to section 6-214 of the Lafayette Municipal Code (LMC) to allow a front yard setback of 82 feet, a rear yard setback of 75 feet, a western side yard setback of 61 feet, an eastern side yard setback of 15 feet, and a 5-foot setback from the trail easement for a new two-story, single-family residence 2,898 gross square feet in size on a vacant 26,340 square foot parcel within the Hillside Overlay District, located at the intersection of Sierra Vista Way and Sessions Road (Tract 5332 Lot 66); APN 232-052-019.

I. PURPOSE OF HEARING

On September 29, 2008, David Bowie filed a timely appeal on behalf of his client, Lamorinda Properties, of the Planning Commission's denial without prejudice of HDP47-07 and V17-08. Pursuant to section 6-233, LMC, this appeal is being heard as a new matter. The City Council may act upon the applications by granting approval, conditionally granting approval, or denying, one or both applications. In addition to considering the testimony and evidence presented at this hearing, the City Council shall consider all pertinent information from the file as a result of previous hearings from which the appeal is taken. The City Council may reverse or affirm in whole or in part, or may modify the order, requirement, decision or determination appealed from. See Attachment 1 – Appeal Letter and Attachment 2 – Planning Commission Resolution 2008-22.

This staff report contains minutes, staff reports, exhibits, and correspondence from five Planning Commission public hearings as well as supplemental correspondence and exhibits submitted by the City Attorney, the applicant, and the public.

II. SUMMARY OF REQUEST

Hillside Development Siting and Massing determination pursuant to section 6-2065(a)(8)(A) of the Lafayette Municipal Code (LMC) to allow development on a vacant lot within the Hillside Overlay District. For development of vacant lots in the Hillside Overlay District, a two-step application process is required. Phase 1 is an application for a siting and massing determination by the Planning Commission on the location and size of structures. The phase 2 application is for the review of the design and impacts of the project. Because the focus of the phase 1 application is on siting and massing, the scope of application materials submitted and the level of review and analysis is not as exhaustive as it is for the phase 2 application. Site plans at this stage would include such items as topography, existing infrastructure, and neighborhood context. Architectural plans should show general massing, building heights, and preliminary floor plans but may not show specific design details. Once a location and overall size are determined, the phase 2 application would be submitted.

Review and analysis of the phase 2 application is much more rigorous and requires a detailed site plan including site improvements like landscaping, driveways, patios, swimming pools, etc. and preliminary grading and drainage plans. Full architectural and floor plans would be submitted along with proposed building colors, materials, and exterior lighting.

A previous phase 1 application, HDP10-07, was submitted by the same applicant and owner but withdrawn prior to a decision by the Planning Commission.

III. SITE CONDITIONS AND LOCATION

Location:	Lot 66; intersection of Sierra Vista Way and Sessions Road
Existing Development:	Vacant except for Sessions Road which bisects the property south/north, an easement for a portion of the Petar Jakovina Trail, and a paved drainage swale along the western edge of the Sessions Road pavement
Existing Vegetation:	Native and non-native shrubs and trees including pines, oaks, and redwoods
Topography:	Steeply sloped upward south to north Low: 450' High: 506'
Lot Size:	26,340 square feet
Zoning:	R-10, Single Family Residential District - 10
General Plan:	Medium Density Single Family Residential; up to 6 du/acre
Surrounding Uses:	Single-family residential development; properties south of the Lot 66 are zoned R-10 and properties north of Lot 66 are zoned HPD and R-20

IV. PROJECT DESCRIPTION *(as currently proposed)*

Available Building Area	3,962.5 s.f. on east side of Sessions Road

Gross Floor Area: Current plans show a gross floor area of 2,898 s.f. consisting of a 543 s.f. garage and 630 s.f. lower floor and 1,725 s.f. upper floor

Height: 30' as measured from the average of the lowest and highest grade at the lowest foundation wall on the south elevation to the middle of the roof

See Attachment 3 – Project Location, Aerial Photograph, and Context Map and Attachment 4 – Site Topography, Preliminary Grading and Site Plan, Floor Plans, Building Elevations, and Site Section.

V. SUMMARY OF PLANNING COMMISSION HEARINGS AND COMMENTS

The Planning Commission held five public hearings on the applications. At various times they gave direction to the applicant to reduce the size of the building, set the building farther up the hill, change driveway locations, and consider alternative parking schemes. These hearings are summarized in the table below. A complete record of these proceedings can be found in Attachment 5 – Planning Commission Minutes, Staff Report, Correspondence, June 5, 2008, Attachment 6 – Planning Commission Minutes, Staff Report, Correspondence, July 3, 2008, Attachment 7 – Planning Commission Minutes, Staff Report, Correspondence, August 21, 2008, and Attachment 8 – Planning Commission Minutes, Staff Report, Correspondence, September 4, 2008.

Meeting	Applicant's Submittal	Planning Commission Comment
June 5	3,507 g.f.a; 36' high Primary access from Sessions Road north of house with 1 parking space Secondary access from Sessions south of house with 1 parking space Building starts at 461 contour line 10' setback from eastern property line	Design a smaller house due to lot constraints Move the development farther uphill to create less impact on privacy; to about the 470 contour line Consider alternatives for parking
July 3	Reduced gross floor area from 3,507 g.f.a. to 3,323 g.f.a. Building reduced by 4 feet at the southern end and moved from 461 contour line to 462 contour line. Two open parking spaces provided north and south of house.	No need for multiple entries Considered a corner lot; apply setbacks accordingly The house needs to be smaller and more consistent with the neighborhood it is going to face Provide a conventional garage
August 21	Driveway moved from Sessions Road to Sierra Vista Way and oriented toward neighborhood House is set back 5 feet from edge of trail easement House moved 20 feet farther up slope to 464 contour interval; 85-foot setback from Sierra Vista Way House reduced from 3,323 g.f.a. to 2,785 g.f.a.	Redesign development such that no portion, including the driveway, is lower than the 474 contour interval as shown on the topographic map.

	Attached 473 s.f., two-car garage provided Face of garage is 11 feet north of the end of the Swarts house (1139 Sierra Vista Way)	
September 4	Site plan of 1,334 g.f.a. house and garage with driveway from Sessions Road as requested by PC provided for illustrative purposes only House reduced from 2,785 g.f.a to 2,312 g.f.a; 30' high Building set at 464 contour interval One access from lower Sessions Attached 473 s.f. ., two-car garage provided Eastern setback varies from 10 to 15 feet Face of garage is 11 feet north of the end of the Swarts house (1139 Sierra Vista Way) Variance request for front setback of 86', rear setback of 67', western setback of 62', eastern setback of 10', 5' setback from trail easement	Directs staff to prepare a resolution denying HDP47-07 and V17-08 because the development is not responsive to the Commission's request to set the house above the 470 contour line in order to provide screening and privacy to the adjoining neighbors and the neighborhood, does not preserve physical features including drainage swales, the site design location and massing of structures does not to the extent feasible, minimize loss of privacy to surrounding residents and has a significant visual impact when viewed from lower elevations including Sessions Road and Sierra Vista Way. Additionally, the development will create a nuisance, hazard, or enforcement problem within the neighborhood and city and will require the city to provide an unusual or disproportionate level of public services because of its location on Sessions Road and the existing design of Sessions Road. There are no special circumstances concerning the subject property, including size, shape, topography, location or surroundings, that the strict application of the zoning ordinance would deprive the property of privileges enjoyed by other properties in the vicinity and in the same land use district. The variance will constitute a grant of special privilege which is not generally available to other property in the vicinity and in the same land use district, and the variance applied for is not consistent with the one that the City Attorney recommended. The Commission did not wish to grant variances until a house location was approved.

VI. SUMMARY OF STAFF COMMENTS

Originally, staff had concerns with the size and massing of the development, driveway locations, and tree removal, and that impacts to the adjacent property were not minimized to the maximum extent feasible and recommended several design changes. It was not until the applicant had reduced the gross floor area to 2,312 square feet, the height to 30.75 feet, provided a single access from Sessions Road, an attached two-car garage, a separation of 19 feet from the Swarts house, and an increased setback from the eastern property line for part of the building to 15 feet, that staff recommended approval of the project.

It was staff's opinion that the issue of privacy between the subject property and the Swarts house had been addressed by the applicant. The house had been shifted up the hill to provide more separation. The closest

elevation to the Swarts house is the single story garage. The wall of the kitchen/dining room is setback 15 feet from the property line allowing for the retention of a 24" tree. Windows on the eastern elevation are placed five to six feet above the floor line providing light but not direct views down and south to the Swarts house. As designed, development would not interfere with the existing trail located on Sessions Road. Development grading has been minimized by terracing the building and using foundation walls to bunker the building into the slope.

When the City has limited the size of homes it is usually because of incompatibility with adjacent homes and off-site visibility. The proposed size and scale of this development is similar to other properties in the Sierra Vista neighborhood and the site is flanked by two-story homes. Due to its location within a developed residential area with varied topography and mature vegetation, there is no visibility of the project site from distant, off-site locations which warrant a reduction in building size or square footage.

Lot 66 is a legal lot and the property owner has the right to use to the property for an economically viable use. A single family residence is an allowed use in the R-10 zoning district. As proposed, this is the best location to site a home on this property. The western slope is too steep and would require significant grading. The City Engineer, City's traffic consultant, and Fire District reviewed this phase 1 application. None of their comments precluded or restricted safe access to the building site and its development for a single-family home.

VII. PUBLIC NOTICE AND COMMENT

As required by law, property owners within 300 feet of the subject property and the Northridge HOA were mailed notice of public hearings before the Planning Commission. Notice of this City Council hearing was mailed on October 30, 2008. Additionally, the public notice was posted in three locations in proximity to the project site on October 30. Correspondence submitted for this appeal hearing is included as Attachment 9. Comments submitted throughout the course of the Planning Commission hearings are included with material from the specific meeting. Additional public correspondence is included in Attachment 12.

In addition to stating opinions on the merits of the project, letters have included comments on the application and planning process, legal status of Lot 66, impacts to the trail easement, easement(s) granted to property owners on Sessions Road and in the Northridge subdivision, geology and soils, drainage, and existing redwood trees.

Legal status of Lot 66. The property was created through the approval of Tract No. 533-2 filed with Contra Costa County on March 12, 1954. The Tract, La Canyada Park – Unit No. 2, created 32 individual lots. Lot 66 is one of the lots in the Tract and is a legal lot of record that may be developed in conformance with the City's current rules and regulations. This may permit a residence, foster home, church, farming, livestock keeping, and/or any other legal use of the property. See Attachment 10 – Correspondence from City Attorney.

Lot is fully encumbered by easement(s). Although Lot 66 was not a part of the minor subdivision that created the four parcels immediately north of Lot 66, the final map for MS502-94 references document 5054 OR 439, a non-exclusive easement for ingress and egress and utilities. According to correspondence and materials submitted by the public, a full lot-line to lot-line non-exclusive easement exists in various grant deeds of property owners on Sessions Road. See attachments 5, 6, 7, 9, and 12 for these references. According to a letter from David Bowie, an indenture agreement and grant deeds

in the 1960s limited a non-exclusive ingress and egress easement to 50 feet. See exhibit in Attachment 11 for Mr. Bowie's letter of May 28, 2008.

Regardless of whether or not a non-exclusive access and utility easement exists on Lot 66, the City Attorney has rendered the opinion that existence of this easement and its impact on Lot 66 is a dispute between private property owners that is best handled privately and potentially in a court of law. The City has no obligation or duty to enforce a private easement. Therefore, the City should continue to process and make a determination on the application. (See exhibit in Attachment 10.)

Trail easement. A 50-foot wide trail easement was dedicated to the City as part of minor subdivision MS502-94 which created four lots along Sessions Road north of the project site. Staff has verified with members of the Lafayette Parks, Trails and Recreation Commission that the path of the Petar Jakovina Trail through the project site is on the paved road. They also confirmed that allegations of trail alterations or removal of improvements on Lot 66 are unfounded. Approximately 80 feet north of the project site, the trail leaves the paved road and continues off-road to the west.

According to the City Attorney, the trail easement (Document 98-0044267) provides for vehicular access on the trail easement that is coterminous with Sessions Road and the applicant can access Lot 66 via the portion of the trail easement that is coterminous with Sessions Road (see memo in Attachment 10). As designed, the project will not impact public access to the Petar Jakovina Trail. It should be noted that the City's brochure for this trail states that car parking for trail access is not permitted on Sessions Road. Trail access is for hiking only.

Geology and soils: Although typically not required for a phase 1 application, the applicant submitted a Preliminary Geotechnical Reconnaissance Report prepared by Cal Engineering & Geology, Inc. This report evaluated the site-specific geologic and geotechnical conditions of the site and the suitability of the property for the proposed development.

Reconnaissance level observations revealed that moderate amounts of grading have occurred on the property. The age of the grading is not known, however, it appears to have been done in relation to the creation of Sessions Road and the construction at the adjoining property at 1139 Sierra Vista Way. The construction of Sessions Road required the placement of fill which is estimated to range between one and five feet thick along the roadway. The report states that surficial soils are made up of well-drained clay, sandstone and shale bedrock. Runoff is medium and the hazard of erosion is moderate where the soil is bare. These soils have a high shrink-swell potential.

Regional landslide features maps by the U.S. Geological Survey and California Geological Survey identified deposits of landslide debris in the ravine above the property. The map by the California Geological Survey indicates that the landslide debris extends beneath the proposed building site but observations by Cal Engineering suggest that much of the landslide deposit in the ravine above the property was likely removed during the grading of Sessions Road. It is their opinion that the past grading has significantly reduced the potential for landslide debris in the ravine above the property from impacting the property. Furthermore, no readily identifiable evidence of recent landslide activity at the property was observed.

The report also notes that the project site is not located within an Earthquake Fault Zone for active faults as defined by the State Geologist. The nearest mapped fault is located approximately eight kilometers southeast of the site. It is the opinion of Cal Engineering that the potential for surface rupture due to faulting at the site is remote.

The report concludes that, from a geotechnical engineering and engineering geology standpoint, it is feasible to develop the property as proposed, provided the recommendations of the report are adhered to in the future stages of the project. Recommendations include geotechnical borings or exploratory pits, laboratory testing of materials recovered from the borings or test pits, and engineering analyses of foundations and improvements. The subsurface exploration program should focus on evaluating the possible presence of landslide debris beneath the building site and recommendations for remedial measures if needed. See exhibit in Attachment 5 for the complete report.

Stormwater runoff. Although not required for a phase 1 application, a preliminary drainage plan has been provided by the applicant. As requested by the City Engineer, the drainage system will provide stormwater collection through a swale north of the house. The swale will flow to a Christy inlet and then underground to be dispersed into a vegetated infiltration area south of the driveway. Roof drainage will also be directed to the underground system. The infiltration area will be fitted with an underdrain and overflow to the existing stormdrain on Sierra Vista Way.

As requested by the Planning Commission, the project civil engineer, Schell & Martin, Inc., also provided a drainage study of lower Sessions Road and the project site. The study concluded that the drainage pattern for the project area watershed was changed when Sessions Road was constructed. An insignificant amount of water currently reaches the project site from the watershed above and development of the site will prevent runoff that flows across the hillside portion of the property to the east of Sessions Road from entering the adjacent property. Tony Coe reviewed the report and it provides an adequate description of the area hydrology for this level of project review.

A more detailed plan based on hydrological data will be required during the phase 2 application review. At a minimum, the project will be required to mitigate any impacts from site development and may improve the existing drainage situation.

See exhibit in Attachment 6 for drainage study and July 21, 2008 letter from Howard Martin in Attachment 11.

Traffic study of this intersection/traffic safety. No traffic study has been requested by the City or provided by the applicant for this phase 1 application although the project has been reviewed by the City's traffic consultant, Chuck DeLeuw. Mr. DeLeuw's review of the project is discussed in Section VIII, below. As stated elsewhere in this report, the phase 2 application will be reviewed for potential environmental impacts on traffic, biotic resources, hydrology, etc. once a determination is made on the siting and massing.

On-site redwood trees. Comments have been made by the public that the redwood trees planted on Lot 66 were required as conditions of approval of the Northridge Subdivision (TR5305). Staff reviewed City Council Resolution No. 110-80 approving TR5305 which included 41 conditions of approval. Condition "h" required a landscape plan as part of the Final Development Plan showing planting needed to conceal substantial graded slopes from view. Condition "aa" requires that brush and shrubs be cleared from the north side of Sierra Vista Way at its intersection with Sessions Road to provide adequate site distance for vehicles entering and exiting Sessions Road subject to the approval of the City's Traffic Engineer. Upon review of two boxes containing the TR5305 file, staff has only found landscape plans for the clubhouse area and some of the homesites. Improvement plans do not show landscaping although they show improvements to Sessions Road as it passes through Lot 66 including clearing brush and shrubs, installation of "stop" and "private road" signs, and installation of a sidewalk along Sierra Vista Way. Members of the public have also reviewed these files.

VIII. ANALYSIS OF CURRENT PROPOSAL

Current Project

The current plans, dated received October 30, 2008 differ from the project denied by the Planning Commission. The project denied by the Planning Commission was for a 2,312 gross square foot, 30.75 foot high home with an attached 473 square foot garage. The building started at the 464' contour interval. The current plan is for a 2,898 square foot, 30 foot high home with an attached 543 square foot garage. The building starts at the 463' contour interval. The driveway is in the same location as the previous plan.

Conformance with the California Environmental Quality Act

Staff has determined that this project is exempt from the California Environmental Quality Act (CEQA). It is only a determination on a potential building site and is covered under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Any future plans to develop the property will be subject to CEQA review on its own merits.

Consistency with the General Plan

The General Plan land use designation for the property is Medium Density Single Family Residential and allows up to six dwelling units per acre. The proposed single-family dwelling on this .6-acre lot is consistent with this designation.

Conformance with Zoning Regulations

The property is zoned R-10, Single-Family Residential District – 10 and has been zoned such since at least 1974. The property is also located in the Hillside Overlay District; however, it is not located within or near a ridgeline setback. At their meeting of July 3, 2008, the Planning Commission determined that this parcel should be considered a "corner lot" for purposes of setback from a secondary frontage. Development standards for the R-10 District include the following:

Front Setback:	On corner lots the principal frontage of the lot shall have a setback of at least 20 feet and the other setback shall be at least 15 feet.
Side Yard:	Aggregate side yard of at least 20 feet; no side yard less than 10 feet wide.
Rear Yard:	At least 15 feet
Parking:	2 spaces covered or uncovered located outside the side yard or front yard setbacks

As designed, the front setback from Sierra Vista Way is 82 feet, the rear setback is 72 feet, the eastern side yard setback is 15 feet and the setback from the trail easement is 5 feet. Setbacks apply to structures over 6 feet high. A 543 s.f. garage provides parking for two vehicles.

As stated previously, it is the City Attorney's opinion that the issue of whether or not, and to what extent, the property is encumbered by an access easement is a private matter between the affected property owners. However, she is recommending out of an abundance of caution that the applicant

submit a variance application defining the distance from property lines and from the trail easement for building setback. Regardless of this recommendation, a variance would be required to reduce the setback from the trail easement from 15 feet to 5 feet.

Agency Comments

The current plan has not been reviewed by the Contra Costa County Fire Protection District or City traffic consultant, Chuck DeLeuw. However, the current plan does not present a building or driveway placement that has not previously been reviewed.

Fire District comments are included in attachments 5 and 8. Their original comments (Attachment 5) were based on a design with driveways on Sessions Road, located north and south of the building. They did not identify any problems with emergency access, driveway or roadway grades, fire apparatus turnarounds or other problems or deficiencies that would significantly impact the development potential of the property. They noted that the roadway surface transition from Sierra Vista Way to Sessions Road would need to be corrected to provide for a grade difference of no greater than 10 percent within the first ten feet of the grade break. Other comments related to adequate water supply and installation of a fire hydrant would be included as conditions of approval during the phase 2 application.

The District later reviewed plans with access from Sierra Vista Way. They again submitted comments related to installation of a fire hydrant, premises identification, and vegetation clearance and made no specific comment on the access from Sierra Vista Way. However, after they provided these comments, they also submitted a letter expressing their preference that development be accessed from Sierra Vista Way due to existing roadway conditions. Sessions Road does not provide an adequate drivable surface for a roadway that exceeds 16 percent grade. Sierra Vista Way would provide a safer access point to the proposed residence and would meet the Fire District's minimum requirements for access. After receiving the letter, staff spoke with Fire Prevention Technician Ted Leach. He stated that it would be easier for the District to stage their equipment on Sierra Vista Way if they needed to service the project site rather than Sessions Road but conditions on Sessions Road would not prevent them from servicing the property. See Attachment 8 for these comments.

Mr. DeLeuw's comments are included in attachments 5 and 8. Most of his comments are design oriented and would be addressed during the phase 2 application. Based on Mr. DeLeuw's comments of January 11, 2008, project plans were revised to allow drivers to turnaround in the driveway and exit frontwards into Sessions Road. Mr. DeLeuw later reviewed the 7/24/08 plan with the driveway from Sierra Vista Way. He suggested that an alternate driveway design be considered that would have the new driveway intersecting Sessions Road rather than Sierra Vista Way. Having the driveway access from Sierra Vista Way would increase turning movements at the top of the curve. Even though traffic volumes are not large, turning movements should be considered. Creating a driveway in the vicinity of topographic contours 460-464 would allow access to the proposed garage as well as providing a turnaround hammerhead to the south. See Attachment 8 for Mr. DeLeuw's comments of August 25, 2008.

Staff Comments

The current proposal continues to show a building mass designed to step with the terrain presenting one- and two-story elements and differentiated rooflines when approached from lower Sessions Road. Foundation retaining walls are used to bunker and set the building into the grade. There is a grade

difference of about 8 feet between the garage floor and the garage of the adjacent property at 1139 Sierra Vista Way largely due to the excavated cut made into the hillside at 1139.

The house at 1139 predates the surrounding Sierra Vista Way/La Canyada Park subdivision and has less than a 6-foot setback from the property line. The proposed building is set back 15 feet from the eastern property line. The western elevation provides greater wall articulation than the eastern elevation as the building follows the curve of the Sessions Road right-of-way. Outdoor living area would be provided by a terrace overlooking Sessions Road.

The current plan also shows a decomposed granite walkway along the eastern side of Sessions Road to provide pedestrian access off-road. The applicant would provide this feature as part of project development. However, the walkway is within the dedicated trail easement and requires review by the City's Parks, Trails, and Recreation Commission. Staff recommends that this design feature be reviewed during the phase 2 application process.

Trees and Landscaping: The eastern side of Sessions Road is heavily wooded and existing trees are namely Canary Island pines and redwoods. Other species include coast live oak, valley oak, Italian stone pine, and California pepper. Development of the property would require approval of a category II tree permit for the removal of protected trees as required by Chapter 6-17, Tree Protection, LMC. For this undeveloped property, any tree of any species with a diameter of six inches or more is considered a protected tree. Replacement tree counts for protected trees removed are calculated by the formula stated in section 6-1707(g)(1), LMC., "For each six inches or its fraction of the diameter of the tree to be removed, two 15- gallon trees shall be planted. The diameter of a multi-trunked tree is the sum of the diameters of its component trunks."

The applicant has submitted arborist reports from Baefsky & Associates, dated July 6, 2007 and April 1, 2008 (see exhibits in Attachment 5.) The reports analyze the probable impacts on specific trees from two possible design scenarios and provide details for the preservation of remaining trees. The reports were reviewed by the City's landscape consultant, Pennell Phillips of Inside Out Design, Inc. Mr. Phillips stated that the reports were thorough and he agreed with the majority of the recommendations presented for the design scenarios.

Thirty-one trees were surveyed on the west and east sides of Sessions Road. Twenty-eight of the trees are located on the east side. The current plan has not been reviewed by either Baefsky & Associates or Inside Out Design. However, based on the tree surveys and comments provided in their reports, staff has prepared an update based on the current plan. Nine trees will have to be removed to accommodate the current development plan. One other tree is close to a proposed retaining wall and may be impacted. The following table lists the trees to be removed.

Tree #	Species	Size	Condition	Comment	Replacement Trees
7	California pepper	21"	Very poor/poor	May be impacted by retaining wall	8
9	Coast redwood	22", 13"	Poor-Fair	Building conflict	12
10	Coast redwood	21"	Fair	Building conflict	8
12	Coast redwood	18"	Fair	Building conflict	6
13	Coast redwood	23", 12"	Fair	Building conflict	12
14	Coast redwood	22"	Fair-Good	Building conflict	8
15	Coast redwood	19"	Fair	Building conflict	8
18	Coast redwood	19", 11"	Poor-Fair	Building conflict	10

19	Coast redwood	18"	Poor	Building conflict	8
23	Canary Island pine	24"	Poor	Deck conflict	4

Based on the formula, total replacement tree count would range between 76 and 84 fifteen-gallon trees. For the non-native trees removed from the site, Mr. Phillips recommends replacement trees be specified as either coast live oak or valley oak.

Visibility and Privacy. Given the configuration of the lot and the fact that it is bisected by Sessions Road, any development of the site will be highly visible in the immediate vicinity of the site. Constrained by the grade and alignment of Sessions Road and the 50-foot wide trail easement, visual impacts will be difficult to mitigate with landscaping. In order to mitigate some of the visual impact of development, the building has been stepped with the terrain presenting one- and two-story elements and differentiated rooflines when approached from lower Sessions Road. Foundation retaining walls are used to bunker and set the building into the grade.

Due to its location within a developed residential area with varied topography and mature vegetation, there will be little to no visibility of the project site from distant, off-site locations.

The only impact on privacy from development of Lot 66 is on the adjoining property at 1139 Sierra Vista Way. The house is two stories at the street frontage stepping up the hill to one-story. The rear of the house, which has no windows, is 21 feet from the corner of the proposed garage. There is a retaining wall approximately five feet from the rear of the house and then the terrain rises steeply upward at a 2:1 slope. The eastern elevation of the proposed house faces this slope and not the Swarts home. Also, the Swarts home is designed with the outdoor living area east of the house so the proposed house will not have an impact on this outdoor area.

Visual and privacy impacts not already mitigated by the current plan, can be further addressed by careful attention to architectural details, consideration of building materials and colors, and vegetative screening during the phase 2 application process.

Variance

The City Attorney has recommended that the applicant submit a variance application defining the distance from property lines and from the trail easement for building setback. The applicant has requested a variance to reduce the yard setback from the trail easement from 15 feet to 5 feet and to define a front yard setback of 82 feet, a rear yard setback of 75 feet, a western side yard of 61 feet, and an eastern side yard setback of 15 feet. While a variance for yard setbacks is related to the question of where the Sessions Road right-of-way easement is located, the applicant's request to reduce the setback from the trail easement is directly related to zoning ordinance standards. It is staff's opinion that there are special circumstances with this property that warrant approval of this aspect of the variance request.

The lot is bisected by Sessions Road and a 50-foot wide trail easement. Steep topography further constrains the area for development. After several public hearings on HDP10-07 before it was withdrawn and on this current application, the Planning Commission determined that the property should be treated as a corner lot for the purpose of applying building setbacks. Application of a 15-foot setback from the trail easement would leave a maximum building area width of only 25 feet. Corner lots within the R-10 district can accommodate houses 50 feet or more in width. The variance will not constitute a grant of special privilege not generally available to other properties in the vicinity. The majority of variance application requests are for yard reductions. The variance substantially complies

with the intent and purpose of the R-10 district because the applicant is requesting a variance to construct a single-family home which is a permitted use in the R-10 district. Because of the unique nature of the private access easement affecting this lot, the applicant is requesting a variance for all yard setbacks although the development would greatly exceed the required front and rear yard setbacks and the eastern sideyard setback is being increased from the required 10 feet to 15 feet. It is only because the City also applies yard setbacks to pedestrian access easements that the applicant is requesting a variance to a prescribed setback. In this case, the setback is from a dedicated trail easement serving the public good. The development, with or without a variance, will not have a direct impact on the trail because the trail through Lot 66 is on the paved portion of Sessions Road. Development is set back more than 20 feet from the paved road/trail. See Attachment 11 for applicant's variance request.

IX. FINDINGS

In order to approve a variance request, the following findings must be made.

6-214 Specific findings necessary for variance.

(a) A variance is a modification of the requirements of zoning regulations as to lot area, lot coverage, width, depth, side yard, rear yard, setback, parking requirements, height of building, or other regulation affecting the size, shape or design of a lot or the placement of buildings on it. A variance may only be granted when:

(1) Because of special circumstances concerning the subject property, including size, shape, topography, location or surroundings, the strict application of the zoning regulations deprives the property of privileges enjoyed by other properties in the vicinity and in the same land use district;
(2) The variance will not constitute a grant of special privilege which is not generally available to other property in the vicinity and in the same land use district; and
(3) The variance substantially complies with the intent and purpose of the land use district in which the property is classified.

(b) The granting authority must make specific findings that each of the standards described in subsection (a) of this section is met before it may grant the variance.

In order to approve this phase 1 hillside development application for the siting of new development on a vacant lot in the Hillside Overlay District, the following findings must be made.

6-2071 Findings required for approval of a hillside development permit on an existing lot of record.

The hearing authority may approve an application for a hillside development permit on an existing lot of record in the hillside overlay district only after making the following findings:

(a) The development is consistent with the applicable goals and policies of the general plan and is in conformance with applicable zoning regulations;

(b) The development will preserve open space and physical features, including rock outcroppings and other prominent geological features, streams, streambeds, ponds, drainage swales, native vegetation, native riparian vegetation, animal habitats and other natural features;

(c) Structures in the hillside overlay district will, to the extent feasible, be located away from prominent locations such as ridgelines, hilltops, knolls and open slopes;

(d) The development, including site design and the location and massing of all structures and improvements will, to the extent feasible:
   (1) Minimize the loss of privacy to surrounding residents and not unduly impact, restrict or block significant views;
   (2) Not have a significant visual impact when viewed from lower elevations from public places, using the viewing evaluation map as a guide to establish locations from which views are considered; and
   (3) Not interfere with a ridgeline trail corridor or compromise the open space or scenic character of the corridor.

(e) Within 100 feet of a restricted ridgeline area, or when a exception to a ridgeline setback has been granted, the development will result in each structure being substantially concealed by terrain or vegetation when viewed from lower elevations from public places, using the viewing evaluation map as a guide to establish locations from which views are considered.

(f) Development grading will be minimized to limit scarring and cutting of hillsides especially for long roads or driveways, preserve existing geologic features, topographic conditions and existing vegetation, reduce short and long-term erosion, slides and flooding, and abate visual impacts.

(g) The development provides adequate emergency vehicle access, including turn-around space, to the building site and surrounding on-site undeveloped or isolated areas.

(h) Each structure and proposed landscaping complies with the city's residential design guidelines.

(i) The new or replacement vegetation for the development is native to the surrounding area in areas abutting open space and natural areas, such as oak woodland, chaparral, grassland and riparian areas, and conforms to the policies of Section 6-2051.

(j) The development will not create a nuisance, hazard or enforcement problem within the neighborhood or the city, nor require the city to provide an unusual or disproportionate level of public services.

X. STAFF RECOMMENDATION

Staff recommends that the City Council accept public testimony, consider the recommendations of the Planning Commission and staff, and continue the hearing to December 8, 2008.

XI. ATTACHMENTS

1. Appeal Letter
2. Planning Commission Resolution 2008-22, Staff Report and Correspondence, September 18, 2008
3. Project Location, Aerial Photograph, and Context Map
4. Site Topography, Preliminary Grading and Site Plan, Floor Plans, Building Elevations, and Site Section *(6 sheets)*
5. Planning Commission Minutes, Staff Report, Correspondence, June 5, 2008
6. Planning Commission Minutes, Staff Report, Correspondence, July 3, 2008

7. Planning Commission Minutes, Staff Report, Correspondence, August 21, 2008
8. Planning Commission Minutes, Staff Report, Correspondence, September 4, 2008
9. Correspondence Submitted for City Council Hearing
10. Correspondence from City Attorney
11. Correspondence from Applicant and Project Team
12. Correspondence from Carol Hehmeyer re: HDP10-07

Attachment 1 - Appeal Letter

LAW OFFICE OF DAVID J. BOWIE
Attorney at Law
2255 CONTRA COSTA BLVD., SUITE 305
PLEASANT HILL, CA 94523

DAVID J. BOWIE

Telephone (925) 939-5300
Facsimile (925) 609-9670
Dave@bblandlaw.com

September 29, 2008

RECEIVED
SEP 30 2008
CITY OF LAFAYETTE
PLANNING DEPT.

Mayor Anderson and
Members of the City Council
c/o Christine Sinnette
City of Lafayette
3675 Mt Diablo Blvd, Suite 210
Lafayette, CA 94549

Re Richard W. Holt, Applicant Lamorinda Properties Owner HDP 47-07 and V17-08

Dear Mayor Anderson and Council Members:

I represent Richard W. Holt as applicant and a member of Lamorinda Properties, the owner of Lot 66, Sierra Vista Way. The subject real property consists of a vacant 26,340 square foot parcel within the Hillside Overlay District, located at the intersection of Sierra Vista Way and Sessions Road. The lot is identified by Assessor's Parcel No. as APN 232-052-019. The applications identified above proposed the development of a single family residence with a gross floor area of 2785 square feet and a habitable area of 2312 square feet. The applications were and are for a Hillside Development Permit and a Variance.

On September 18, 2008, the Planning Commission denied without prejudice both the Hillside Development Permit and Variance to permit construction of the proposed residence. By this letter, that denial has been appealed to this City Council. The following discussion will summarize the applications and set forth grounds for appeal.

1. Background Comments:

The subject real property (Lot 66) was created by Subdivision Map filed March 12, 1954. There is absolutely no question but that Lot 66 is a valid legal parcel for all purposes. As a consequence, there is clear entitlement to develop the lot in a fashion consistent with existing zoning and the General Plan. The zoning designation is R-10, Single Family Residential District. That zoning has been in place since at least 1974. Although the lot is located within the Hillside Overlay District, that location is neither within nor near a ridgeline setback.

Lot 66 is configured in somewhat unusual fashion. The lot is actually bisected by Sessions Road. Therefore, a portion of the lot lies to the west of that road; the buildable portion of the Lot is on the east side of the road. There is but one neighbor located any where close to Lot 66; that adjoining property is designated as 1139 Sierra Vista Way.

Due to its location within a developed residential area with varied topography and mature vegetation, any development of Lot 66 would be invisible from distant, off sight locations or locations listed on the Viewing Evaluation Map. The only conceivable impact on privacy from development on Lot 66 is on the adjoining property at 1139 Sierra Vista Way. The house on the adjoining lot predates the Subdivision which created Lot 66 and is located less than six feet from the property line. The adjoining house is two stories at street frontage stepping up the hill one story. The rear of the adjoining house has no windows and is 19 feet from the corner of the proposed garage.

The proposed single family residence for Lot 66 has been situated to avoid privacy impacts on the adjoining property. The closest elevation of new construction to the house on the adjoining lot is a single story garage at a distance of 19 feet. (The proposed structure and the existing structure are actually off set so that they are not parallel.) In addition, the minimum 10 foot set back from the common boundary line is observed; however, the wall of habitable space closest to the adjoining structure is set back 15 feet from the common property line. This additional setback permits retention of an existing 24 inch tree. Finally, windows on the eastern elevation adjoining 1139 Sierra Vista Way have been placed five to six feet above the floor to provide light but no direct views. Obviously, landscaping can be placed within the set back to provide further screening.

The original proposed residence to be constructed was to be 3507 square feet in gross area. The reduction in size to that denied by the Planning Commission resulted in a home compatible with the sizes of other much older homes along Sierra Vista Way and significantly smaller than most homes on Sessions Road. The Planning Commission felt the proposed home was still too large and that it should have been moved substantially further north to be off set to even a greater degree from the house at 1139 Sierra Vista Way. The Planning Commission denied applications for the HDP Permit and for a variance on the ground that it could not find that the proposed development adequately minimized the loss of privacy to surrounding residences and that the development would create a potential nuisance.

The issue before the Planning Commission was a siting and massing study to be undertaken before referral of the project for Design Review purposes to the Design Review Commission.

2. Issues:

Lot 66 is burdened by a trail easement granted the City of Lafayette and by the right of way easement which is Sessions Road.

The trail easement was created as a part of the Subdivision of property immediately north of Lot 66 (Subdivision MS 502-94). The trail easement is 50 feet in width; the set back from that

easement is such that a Variance Application was required simply to accommodate an adequate building pad for the proposed house. The siting of the proposed house meets or exceeds the required set back from the only adjoining property affected by development. The set backs to the north and south property lines far exceed zoning minimums. The only variance actually required is with respect to the trail easement to the west. It might be noted that the only currently existing improved area for a trail is paved Sessions Road. Paved Sessions Road is at a distance from proposed development substantially in excess of minimum set back requirements. The easement constrains development of Lot 66; the grant of variance could not be deemed to be either a grant of special privilege or inconsistent with the intent and purpose of the Zoning District. The special circumstance of the trail easement coupled with the other noted factors compel a grant of variance.

The right of way easement which is Sessions Road is more complicated than the trail easement. Sessions Road is entirely private. As such, any private easement disputes must be resolved between the parties; the City has no role in such dispute(s). The neighbors have maintained throughout the hearing process that Sessions Road is in fact an easement which encumbers the entirety of Lot 66 rendering that lot unbuildable. The neighbors' contentions in this regard are simply not true—and are entirely irrelevant for purposes of City consideration of the subject Applications.

This letter will not restate the factual and legal evidence in support of the legal conclusion that Sessions Road encumbers only a portion of Lot 66 and does not preclude the proposed development. Multiple letters exist in the Administrative Record. It should be noted that Sessions Road cannot be expanded to the east from an engineering standpoint as it cannot be made to satisfy current road building and maintenance requirements. The Variance Application as to Sessions Road was intended to parallel the application as to the trail easement with the same issues and findings.

The Planning Commission properly made no findings nor did it reach any conclusion regarding a variance to set back requirements from Sessions Road. The facts, findings, and conclusions would suggest that a variance should be granted to permit development of the proposed single family residence on Lot 66.

The only issues raised by the Planning Commission Denial Resolution are whether or not the development poses a nuisance and/or unduly impacts the privacy of 1139 Sierra Vista Way.

3. Grounds for Appeal:

The Planning Commission finding regarding potential nuisance lacks any evidentiary support whatsoever. Several neighbors testified regarding alleged drainage problems adversely impacting Lot 66 and potentially impacting adjoining properties. No objective evidence of such alleged problems was offered and competent engineering testimony demonstrated that a drainage plan would mitigate any potential impacts and that the actual flow of water was to areas other than Lot 66. This finding could not possibly justify denial .

The Planning Commission found that the proposed development invaded the privacy of an adjoining neighbor. That finding also lacks any evidentiary support and the Planning Commission clearly misapplied the City's Ordinance.

The applicable Ordinance is Section 6-2071(d)(1). The Ordinance does not provide that new development shall have no impact on the privacy of surrounding residences; it simply requires that the potential loss of privacy be minimized to the extent feasible. Numerous examples of significantly greater privacy invasions in the context of recent Planning Commission approvals were offered to demonstrate the arbitrary and capricious application of this subject Code provision to this project. Planning staff recommended approval because staff confirmed the many measures taken with respect to the proposed development designed to mitigate privacy. The Planning Commission chose to ignore staff recommendations and objective evidence in reaching its conclusion based on the cited finding to deny the project.

It might be noted that the Planning Commission indicated that it might approve siting and massing of a proposed residence on Lot 66 if it was placed north of a topographic elevation designated as 474. A Preliminary Study indicated that a home placed in that area would still require tree loss, would make no material difference in privacy impacts, and could accommodate only 849 square feet of habitable area. The applicant protested such a restriction on the grounds that it lacked justification and also deprived Lot 66 of any opportunity for economically viable development.

4. Conclusion:

For all of the foregoing reasons, this appeal of the Planning Commission Denial of the referenced applications has been filed.

Very truly yours,

David J. Bowie

Cc: Dick Holt

Attachment 2 - PC Resolution 2008-22, Staff Report

PLANNING COMMISSION RESOLUTION 2008-22

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LAFAYETTE DENYING HDP47-07 AND V17-08, RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), FOR A HILLSIDE DEVELOPMENT PERMIT FOR SITE AND MASSING DETERMINATION FOR A NEW SINGLE-FAMILY RESIDENCE 2,877 GROSS SQUARE FEET IN SIZE ON A VACANT PARCEL WITHIN THE HILLSIDE OVERLAY DISTRICT AND VARIANCE TO ALLOW A FRONT YARD SETBACK OF 86 FEET, A REAR YARD SETBACK OF 67 FEET, A WESTERN SIDE YARD SETBACK OF 62 FEET, AN EASTERN SIDE YARD SETBACK OF 10, AND A 5-FOOT SETBACK FROM THE TRAIL EASEMENT, LOCATED AT THE INTERSECTION OF SIERRA VISTA WAY AND SESSIONS ROAD (TRACT 5332 LOT 66); APN 232-052-019.

RECITALS

A. On November 14, 2007, Richard Holt filed an application for a siting and massing determination for a new single-family residence in the Hillside Overlay District located at the intersection of Sierra Vista Way and Sessions Road (Tract 5332 Lot 66). The project site is located in the R-10 zoning district.

B. On June 5, 2008 and July 3, 2008 the Planning Commission, following notification to the public in the prescribed manner, conducted public hearings where it received written and oral testimony including written staff reports dated June 5, 2008 and July 3, 2008. The Planning Commission considered the application and continued it the meeting of August 7, 2008 to allow the applicant to submit a redesigned project.

C. The Planning Commission public hearing on HDP47-07 was continued from August 7, 2008 to the Planning Commission meeting of August 21, 2008 without consideration at the request of the applicant.

D. On August 21, 2008, Richard Holt filed V17-08, a request for a variance to yard setbacks for a new single-family residence located at the intersection of Sierra Vista Way and Sessions Road (Tract 5332 Lot 66).

E. On August 21, 2008, the Planning Commission conducted a public hearing where it received written and oral testimony including a written staff report dated August 21, 2008. The Planning Commission considered the application and continued it the meeting of September 4, 2008 to allow the applicant to submit a redesigned project.

F. On September 4, 2008, the Planning Commission conducted a public hearing where it received written and oral testimony including a written staff report dated September 4, 2008 recommending approval of HDP47-07 and V17-08. The Planning Commission considered the application, directed staff to prepare a resolution denying HDP47-07 and V17-08 because they could not make the required findings, and continued it the meeting of September 18, 2008.

G. On September 18, 2008, the Planning Commission adopted Planning Commission Resolution 2008-22 denying HDP47-07 and V17-08 for a siting and massing determination and variance to yard setbacks for a new single-family residence in the Hillside Overlay District.

NOW, THEREFORE, the Planning Commission of the City of Lafayette, California, finds and determines as follows:

The Planning Commission has evaluated the findings required for approval of a hillside development permit on an existing lot of record pursuant to section 6-2071, Lafayette Municipal Code, and finds it cannot make the findings because the project will not preserve physical features including drainage swales §6-2071(b); the development, including site design and the location and massing of all structures and improvements, does not to the extent feasible minimize loss of privacy to surrounding residents - §62071(d)(1); the development, including site design and the location and massing of all structures and improvements, has a significant visual impact when viewed from lower elevations including Sessions Road (private street) and Sierra Vista Way (public street) §6-2071(d)(2) – both streets are on the Viewing Evaluation Map; and the development will create a nuisance, hazard, or enforcement problem within the neighborhood and city and will require the city to provide an unusual or disproportionate level of public services because of its location on Sessions Road and the existing design of Sessions Road §6-2071(j). In addition, the development as proposed is not responsive to the Commission's request to set the house above the 470 contour line in order to provide screening and privacy to the adjoining neighbors and the neighborhood.

The Planning Commission has evaluated the findings for the granting of a variance pursuant to section 6-214, Lafayette Municipal Code, and finds it cannot make the findings for yard setbacks because there are no special circumstances concerning the subject property, including size, shape, topography, location or surroundings, that the strict application of the zoning ordinance would deprive the property of privileges enjoyed by other properties in the vicinity and in the same land use district §6-214(1) and because the variance will constitute a grant of special privilege which is not generally available to other property in the vicinity and in the same land use district §6-214(2). The variance that was applied for is not consistent with the one that the City Attorney recommended. The Commission did not wish to grant variances until a house location was approved.

Based on the above findings, the Planning Commission hereby denies HDP47-07 and V17-08 without prejudice.

This resolution shall become effective upon its adoption.

PASSED AND ADOPTED by the Planning Commission of the City of Lafayette at a meeting held on September 18, 2008 by the following vote:

AYES:	Ateljevich, Chastain, Lovitt, Mitchell
NOES:	None
ABSENT:	Curtin-Tinley, Holt, Humann
ABSTAIN:	None

ATTEST:

Niroop K. Srivatsa
Planning Commission Secretary

Mark Mitchell
Planning Commission Chair

City of Lafayette Staff Report

For: Planning Commission

By: Christine Sinnette, Senior Planner

Date Written: September 5, 2008

Meeting Date: September 18, 2008

Subject: **HDP47-07 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING**: Request for a hillside development permit pursuant to section 6-2065(a)(8) of the Lafayette Municipal Code (LMC) for site and massing determination for a new two-story, single-family residence ~~3,507~~ ~~3,323~~ 2,785 gross square feet in size on a vacant 26,340 square foot parcel within the Hillside Overlay District, located at the intersection of Sierra Vista Way and Sessions Road; APN 232-052-019.

V17-08 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING: Request for a variance pursuant to section 6-214 of the Lafayette Municipal Code (LMC) to allow a front yard setback of 86 feet, a rear yard setback of 67 feet, a western side yard setback of 62 feet, an eastern side yard setback of 10 feet and a 5-foot setback from the trail easement for a new two-story, single-family residence 2,785 gross square feet in size on a vacant 26,340 square foot parcel within the Hillside Overlay District, located at the intersection of Sierra Vista Way and Sessions Road (Tract 5332 Lot 66); APN 232-052-019.

Statutory Deadline: September 29, 2008 (with PSA extension)

On September 4, 2008, the Planning Commission conducted a public hearing where it received written and oral testimony including a written staff report dated September 4, 2008 recommending approval of HDP47-07 and V17-08. The Planning Commission considered the application, directed staff to prepare a resolution denying HDP47-07 and V17-08 because they could not make the required findings, and continued it the meeting of September 18, 2008.

Planning Commission Resolution 2008-22 denying HDP47-07 and V17-08 is attached to this report.

From: Pam Swarts [mailto:4swarts@gmail.com]
Sent: Monday, September 15, 2008 6:27 PM
To: Srivatsa, Niroop
Cc: Carol Hehmeyer
Subject: Re: HDP47-07 RICHARD HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER) R-10 ZONING

Here's a copy and paste version.

September 13, 2008

City of Lafayette - Planning Services Division
3675 Mt. Diablo Blvd. – Suite 210
Lafayette, CA 94549
planningcommission@lovelafayette.org; csinnette@ci.lafayette.ca.us

Dear Commissioners:

RE: HDP47-07 RICHARD HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER) R-10 ZONING

RE: V17-08 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING – Request for Variance

The Lot 66 Holt project should be denied with prejudice because of the planning commission's resolution 2008-22. The lot had its "time" for "economic use" back when it was originally purchased. The purchaser decided not to construct a home on it, and instead chose to bisect the lot with a road to access his land-locked property behind it. The lot was then used as an access point to a four-parcel "minor subdivision" not a five-parcel subdivision.

Another reason the application should be denied with prejudice is the fact that Mr. Holt attempted to mislead the city attorney by meeting with her in private with his personal attorney. While it is prohibited for the city attorney to hold such a discussion, Mr. Holt also chose not to share with her the road easement map that encompassed the whole of Lot 66.

Finally, it is a well known fact that Mr. Holt purchased the lot for next to nothing from the estate of Petar Jakovina. Mr. Holt's sole objective was to turn a fast dollar or flip the project at the expense of the neighbors and local community.

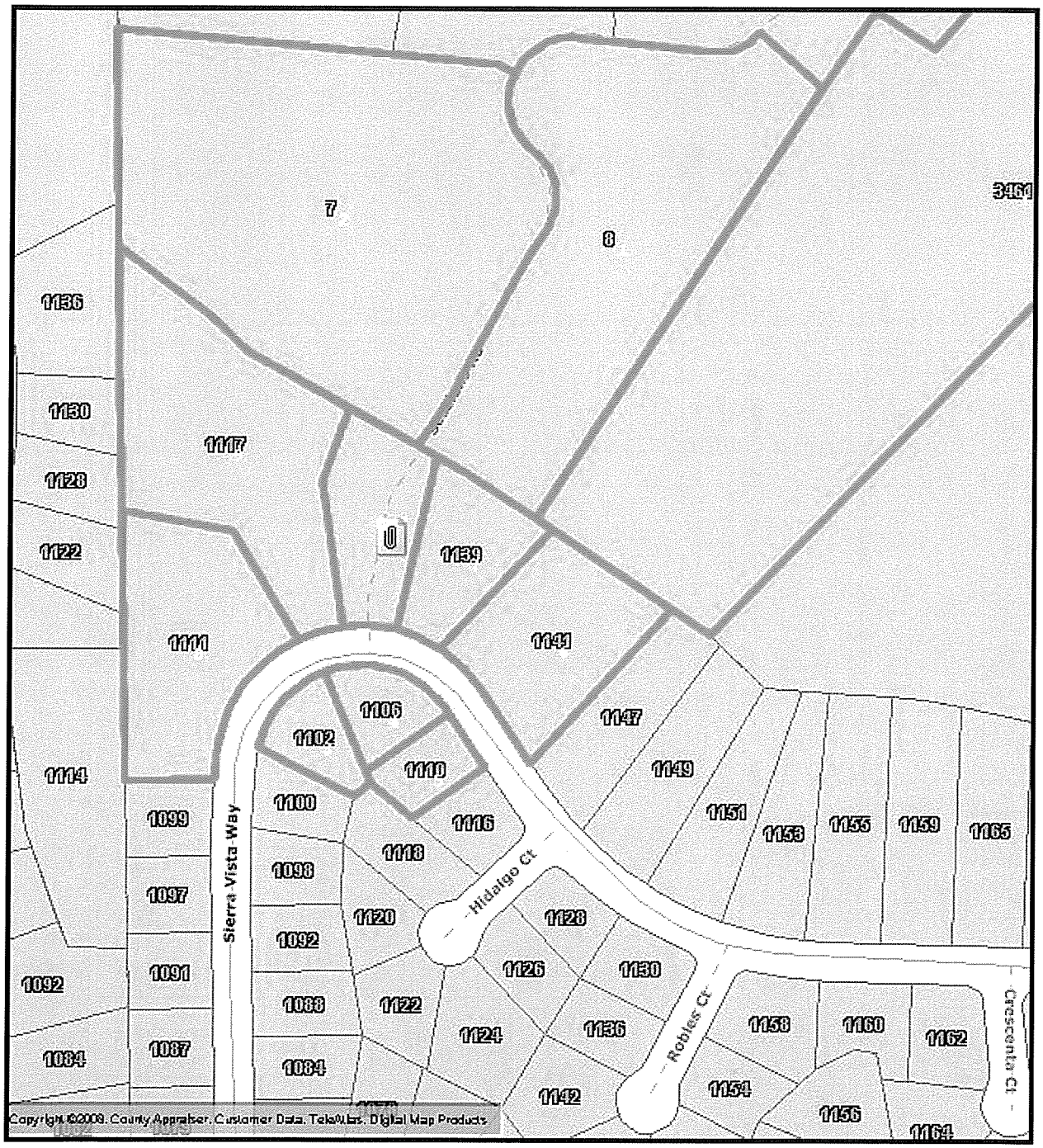
The city should purchase this lot together with the owners of the subdivision up the hill to forever preserve it as a safe, formal entrance, as it was intended to be and should always remain.

Regards,

Jeff Swarts
1139 Sierra Vista Way
Lafayette, CA 94549

HDP47-07
RECEIVED
SEP 15 2008
CITY OF LAFAYETTE
PLANNING DEPT.
RECD VIA EMAIL

Attachment 3 - Project Location, Aerial, Context Map



LAFAYETTE

HDP47-07

Sierra Vista Way

N

150m

CityGIS

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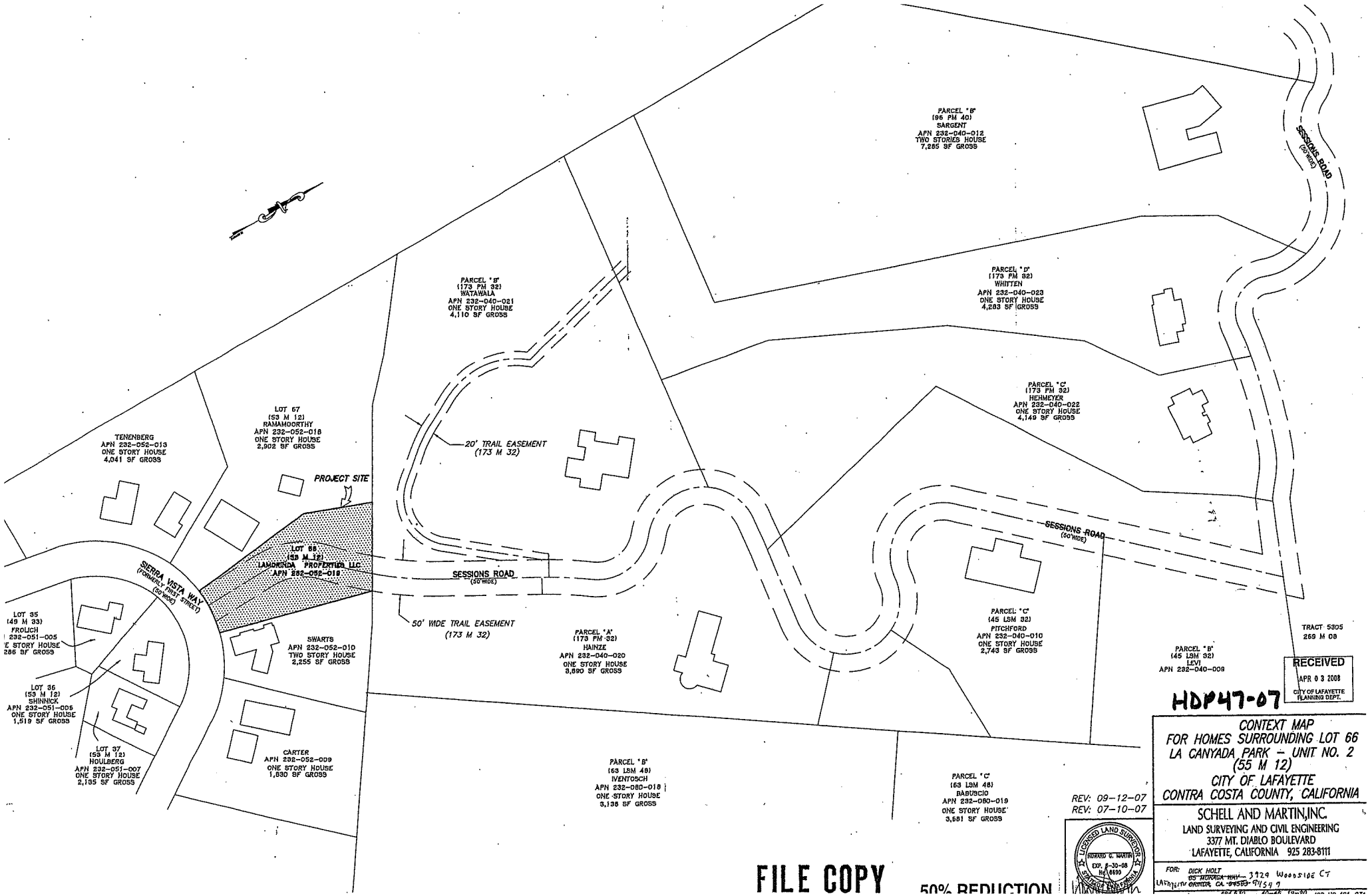
Copyright ©2009 Cartesia Data / TANTEC Tele Atlas Digital Map Products
Stone Wash Road
Seaside Rd
0102
0105
0110
0111
0112
0113
0114
0115
0116
0117



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PLANNING DEPT.

HDP47-07

CONTEXT MAP
FOR HOMES SURROUNDING LOT 66
LA CANYADA PARK – UNIT NO. 2
(55 M 12)
CITY OF LAFAYETTE
CONTRA COSTA COUNTY, CALIFORNIA

REV: 09-12-07
REV: 07-10-07

LICENSED LAND SURVEYOR
HOWARD C. MARTIN
EXP. 6-30-08
No. 6830
STATE OF CALIFORNIA

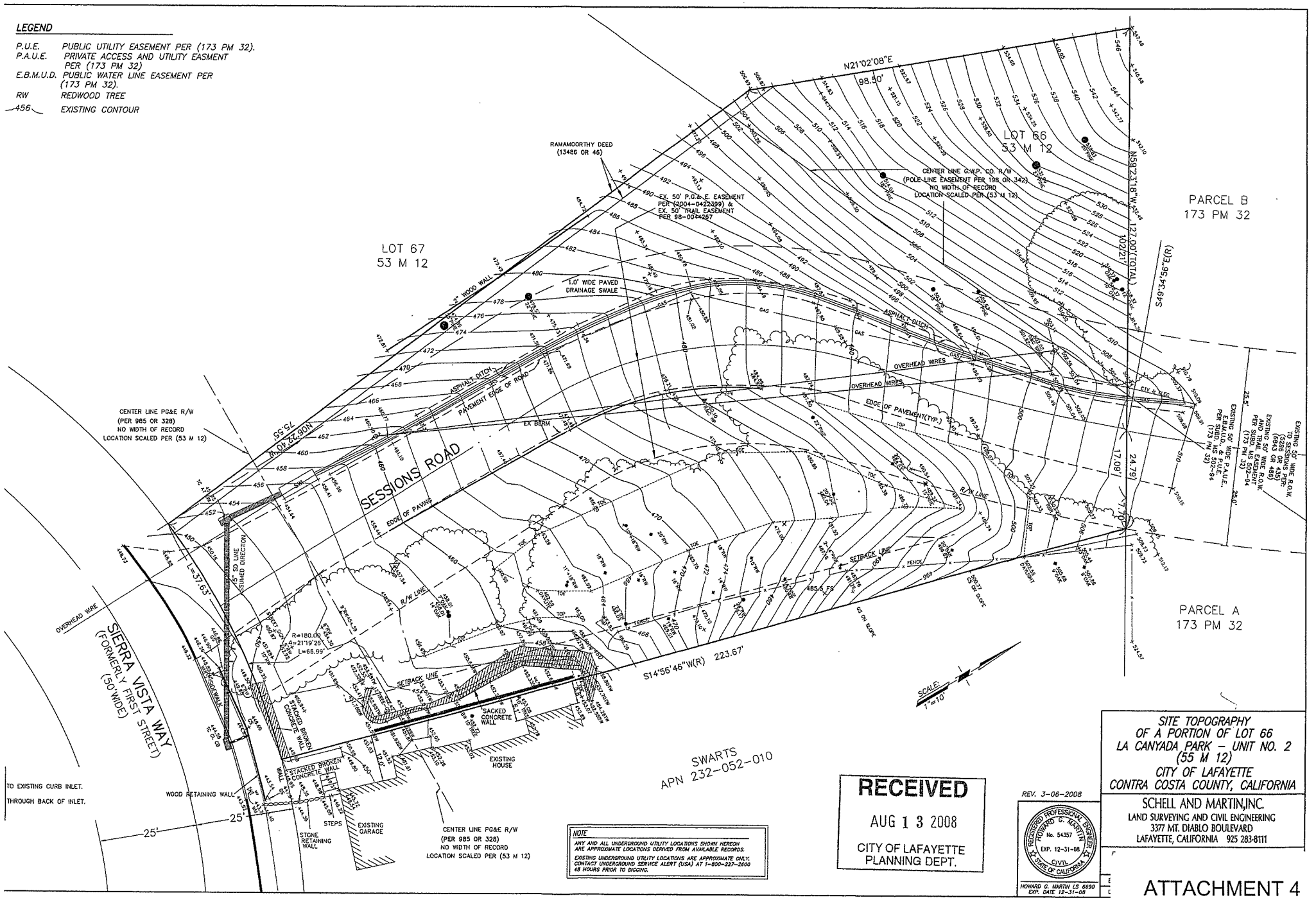
SCHELL AND MARTIN, INC.
LAND SURVEYING AND CIVIL ENGINEERING
3377 MT. DIABLO BOULEVARD
LAFAYETTE, CALIFORNIA 925 283-8111

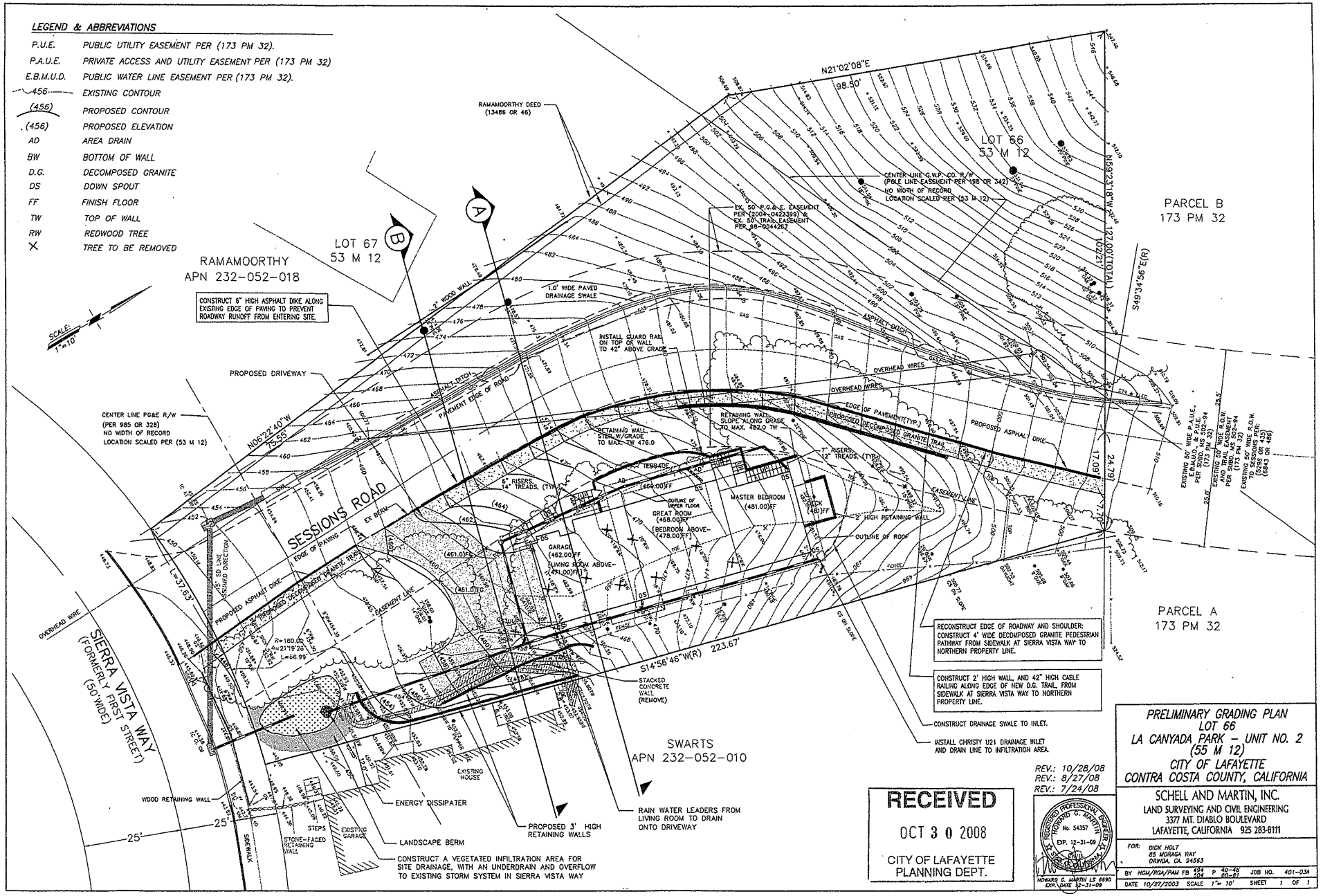
FOR: DICK HOLT
85 MORAGA WAY 3924 WOODSIDE CT
LAFAYETTE ORINDA, CA. 94563-9154 9

FILE COPY

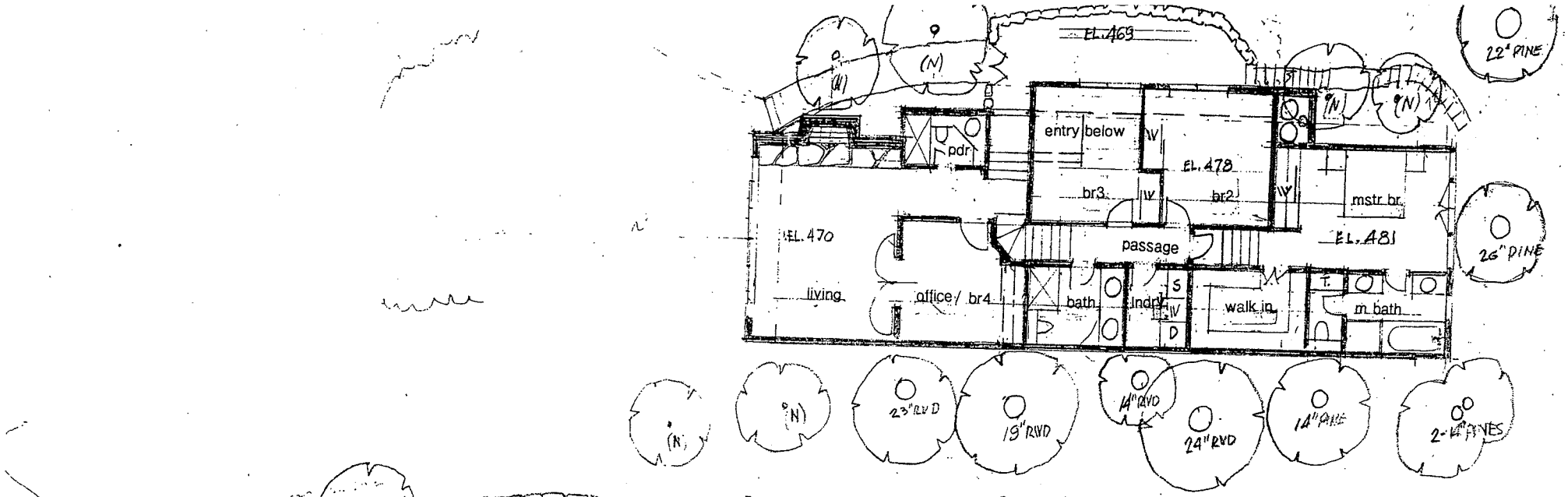
50% REDUCTION

Attachment 4 - Site and Building Plans

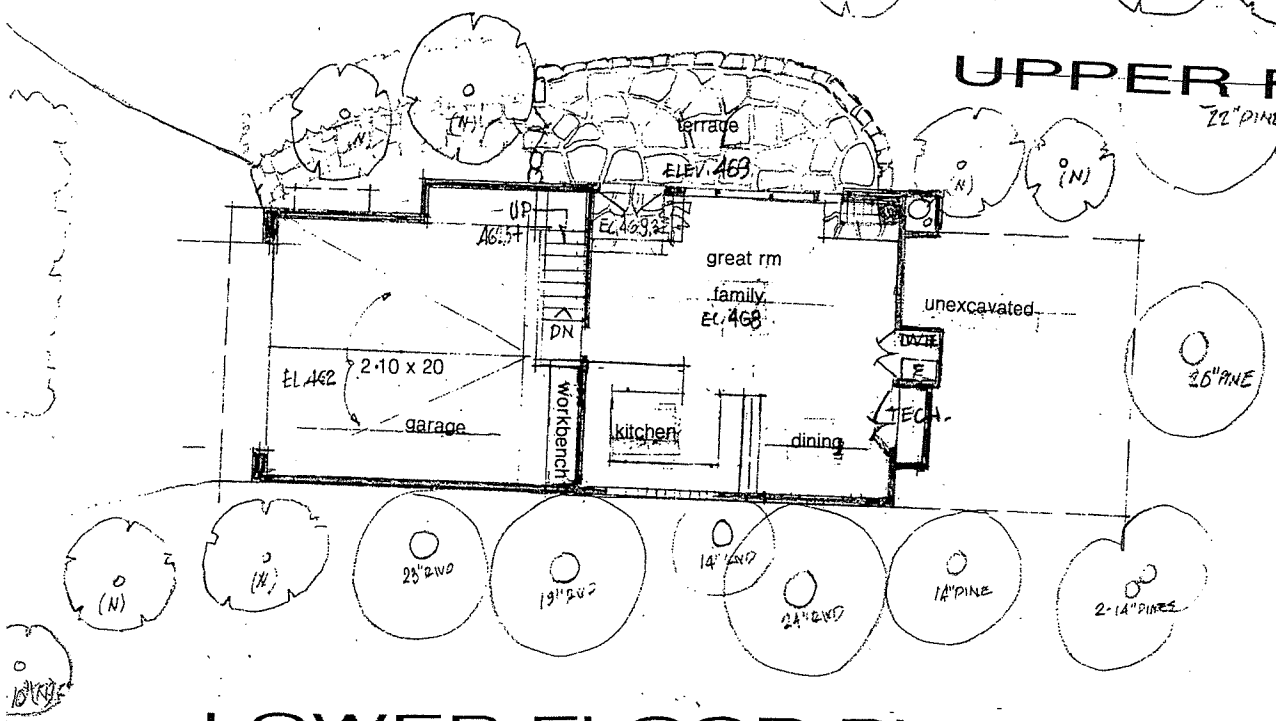

LEGEND
P.U.E. PUBLIC UTILITY EASEMENT PER (173 PM 32).
P.A.U.E. PRIVATE ACCESS AND UTILITY EASMENT PER (173 PM 32)
E.B.M.U.D. PUBLIC WATER LINE EASEMENT PER (173 PM 32).
RW REDWOOD TREE
456 EXISTING CONTOUR
LOT 67
53 M 12
LOT 66
53 M 12
PARCEL B
173 PM 32
PARCEL A
173 PM 32
SESSIONS ROAD
SIERRA VISTA WAY
(FORMERLY FIRST STREET)
(50 WIDE)
N21°02'08"E
98.50'
N59°23'18"W
127.00'(TOTAL)
102.21'
17.09'
24.79'
S49°34'56"E(R)
N06°32'40"W
75.55'
S14°56'48"W(R) 223.67'
L=37.63'
R=180.00'
Δ=21°19'26"
L=66.99'
RAMAMOORTHY DEED
(13486 OR 46)
CENTER LINE G.W.P. CO. R/W
(POLE LINE EASEMENT PER 198 OR 342)
NO WIDTH OF RECORD
LOCATION SCALED PER (53 M 12)
EX. 50' P.G.&E. EASEMENT
PER (2004-0423929) &
EX. 50' TRAIL EASEMENT
PER 98-0004267
CENTER LINE PG&E R/W
(PER 985 OR 328)
NO WIDTH OF RECORD
LOCATION SCALED PER (53 M 12)
2" WOOD WALL
1.0' WIDE PAVED
DRAINAGE SWALE
ASPHALT DITCH
PAVEMENT EDGE OF ROAD
EX BERM
EDGE OF PAVING
EDGE OF PAVEMENT(TYP.)
OVERHEAD WIRES
OVERHEAD WIRE
R/W LINE
SETBACK LINE
FENCE
CITY R/W LINE
EXISTING 50' WIDE R.O.W.
TO SESSIONS ESTATE
(6286 OR 435)
EXISTING 50' WIDE R.O.W.
AND TRAIL EASEMENT
PER SUBD. MS 502-94
(173 PM 32)
EXISTING 50' WIDE P.A.U.E.
E.B.M.U.D. P.U.E.
PER SUBD. MS 502-94
(173 PM 32)
25.5'
25.0'
485.5 FS
SACKED CONCRETE WALL
STACKED BROKEN CONCRETE WALL
WOOD RETAINING WALL
STONE RETAINING WALL
STEPS
EXISTING GARAGE
EXISTING HOUSE
SWARTS
APN 232-052-010
TO EXISTING CURB INLET.
THROUGH BACK OF INLET.
SCALE: 1"=10'
NOTE
ANY AND ALL UNDERGROUND UTILITY LOCATIONS SHOWN HEREON ARE APPROXIMATE LOCATIONS DERIVED FROM AVAILABLE RECORDS.
EXISTING UNDERGROUND UTILITY LOCATIONS ARE APPROXIMATE ONLY. CONTACT UNDERGROUND SERVICE ALERT (USA) AT 1-800-227-2600 48 HOURS PRIOR TO DIGGING.
RECEIVED
AUG 13 2008
CITY OF LAFAYETTE
PLANNING DEPT.
REV. 3-06-2008
REGISTERED PROFESSIONAL ENGINEER
HOWARD G. MARTIN
No. 54357
EXP. 12-31-08
CIVIL
STATE OF CALIFORNIA
HOWARD G. MARTIN LS 6690
EXP. DATE 12-31-08
SITE TOPOGRAPHY
OF A PORTION OF LOT 66
LA CANYADA PARK - UNIT NO. 2
(55 M 12)
CITY OF LAFAYETTE
CONTRA COSTA COUNTY, CALIFORNIA
SCHELL AND MARTIN,INC.
LAND SURVEYING AND CIVIL ENGINEERING
3377 MT. DIABLO BOULEVARD
LAFAYETTE, CALIFORNIA 925 283-8111
ATTACHMENT 4


LEGEND & ABBREVIATIONS
P.U.E. PUBLIC UTILITY EASEMENT PER (173 PM 32).
P.A.U.E. PRIVATE ACCESS AND UTILITY EASEMENT PER (173 PM 32)
E.B.M.U.D. PUBLIC WATER LINE EASEMENT PER (173 PM 32).
456 EXISTING CONTOUR
(456) PROPOSED CONTOUR
.(456) PROPOSED ELEVATION
AD AREA DRAIN
BW BOTTOM OF WALL
D.G. DECOMPOSED GRANITE
DS DOWN SPOUT
FF FINISH FLOOR
TW TOP OF WALL
RW REDWOOD TREE
X TREE TO BE REMOVED
SCALE: 1"=10'
RAMAMOORTHY APN 232-052-018
LOT 67 53 M 12
LOT 66 53 M 12
PARCEL B 173 PM 32
PARCEL A 173 PM 32
SWARTS APN 232-052-010
SESSIONS ROAD
SIERRA VISTA WAY (FORMERLY FIRST STREET) (50' WIDE)
RAMAMOORTHY DEED (13486 OR 46)
CONSTRUCT 6" HIGH ASPHALT DIKE ALONG EXISTING EDGE OF PAVING TO PREVENT ROADWAY RUNOFF FROM ENTERING SITE.
PROPOSED DRIVEWAY
1.0' WIDE PAVED DRAINAGE SWALE
INSTALL GUARD RAIL ON TOP OF WALL TO 42" ABOVE GRADE
ASPHALT DITCH
PAVEMENT EDGE OF ROAD
OVERHEAD WIRES
EDGE OF PAVEMENT(TYP.)
PROPOSED DECOMPOSED GRANITE TRAIL
PROPOSED ASPHALT DIKE
RETAINING WALL SLOPE ALONG GRADE TO MAX. 482.0 TW
RETAINING WALL STEM W/GRADE TO MAX. TW 476.0
6" RISERS, 14" TREADS, (TYP.)
7" RISERS, 12" TREADS, (TYP.)
TERRACE
MASTER BEDROOM (481.00)FF
OUTLINE OF UPPER FLOOR
GREAT ROOM (468.00)FF
[BEDROOM ABOVE-(478.00)FF]
GARAGE (462.00)FF
[LIVING ROOM ABOVE-(491.00)FF]
2' HIGH RETAINING WALL
OUTLINE OF ROCK
FENCE
EASEMENT LINE
CENTER LINE PG&E R/W (PER 985 OR 328) NO WIDTH OF RECORD LOCATION SCALED PER (53 M 12)
CENTER LINE C.W.P. CO. R/W (PBLE LAND EASEMENT PER 198 OR 342) NO WIDTH OF RECORD LOCATION SCALED PER (53 M 12)
EX. 50' P.G.&E. EASEMENT PER (2004-0422399) & EX. 50' TRAIL EASEMENT PER 98-0044267
EXISTING 50' WIDE P.A.U.E., E.B.M.U.D. & P.U.E. PER (173 PM 32)
EXISTING 50' WIDE R.O.W. AND TRAIL EASEMENT PER (1705, 145 502-94 & 1706, 145 502-94)
EXISTING 50' WIDE P.G.&E. R/W TO SESSIONS P.R.C. (6845 OR 435) (6845 OR 486)
N21°02'08"E 98.50'
N59°23'18"W 132.00'(TOTAL)
S49°34'56"E(R)
N06°22'40"W 75.55'
S14°56'46"W(R) 223.67'
L=37.63'
R=180.00'
Δ=21°19'23"
L=66.99'
RECONSTRUCT EDGE OF ROADWAY AND SHOULDER: CONSTRUCT 4' WIDE DECOMPOSED GRANITE PEDESTRIAN PATHWAY FROM SIDEWALK AT SIERRA VISTA WAY TO NORTHERN PROPERTY LINE.
CONSTRUCT 2' HIGH WALL, AND 42" HIGH CABLE RAILING ALONG EDGE OF NEW D.G. TRAIL, FROM SIDEWALK AT SIERRA VISTA WAY TO NORTHERN PROPERTY LINE.
CONSTRUCT DRAINAGE SWALE TO INLET.
INSTALL CHRISTY U21 DRAINAGE INLET AND DRAIN LINE TO INFILTRATION AREA.
STACKED CONCRETE WALL (REMOVE)
RAIN WATER LEADERS FROM LIVING ROOM TO DRAIN ONTO DRIVEWAY
PROPOSED 3' HIGH RETAINING WALLS
ENERGY DISSIPATER
LANDSCAPE BERM
CONSTRUCT A VEGETATED INFILTRATION AREA FOR SITE DRAINAGE, WITH AN UNDERDRAIN AND OVERFLOW TO EXISTING STORM SYSTEM IN SIERRA VISTA WAY
WOOD RETAINING WALL
STEPS
STONE-FACED RETAINING WALL
EXISTING GARAGE
EXISTING HOUSE
SIDEWALK
OVERHEAD WIRE
25'
RECEIVED
OCT 30 2008
CITY OF LAFAYETTE PLANNING DEPT.
REV.: 10/28/08
REV.: 8/27/08
REV.: 7/24/08
REGISTERED PROFESSIONAL ENGINEER HOWARD G. MARTIN No. 54357 EXP. 12-31-09 CIVIL
HOWARD G. MARTIN LS 6690 EXP. DATE 12-31-09
PRELIMINARY GRADING PLAN
LOT 66
LA CANYADA PARK - UNIT NO. 2
(55 M 12)
CITY OF LAFAYETTE
CONTRA COSTA COUNTY, CALIFORNIA
SCHELL AND MARTIN, INC.
LAND SURVEYING AND CIVIL ENGINEERING
3377 MT. DIABLO BOULEVARD
LAFAYETTE, CALIFORNIA 925 283-6111
FOR: DICK HOLT
85 MORAGA WAY
ORINDA, CA 94563
BY HGM/RGA/PAM FB 494 P 40-46 504 60-61 JOB NO. 401-03A
DATE 10/27/2003 SCALE 1"= 10' SHEET 1 OF 1

V:\PROJECTS\401\2003\01-03\401 PRELIMINARY GRADING PLAN 8-25-08.dwg Tue Oct 28 10:23:22 2008



UPPER FLOOR PLAN

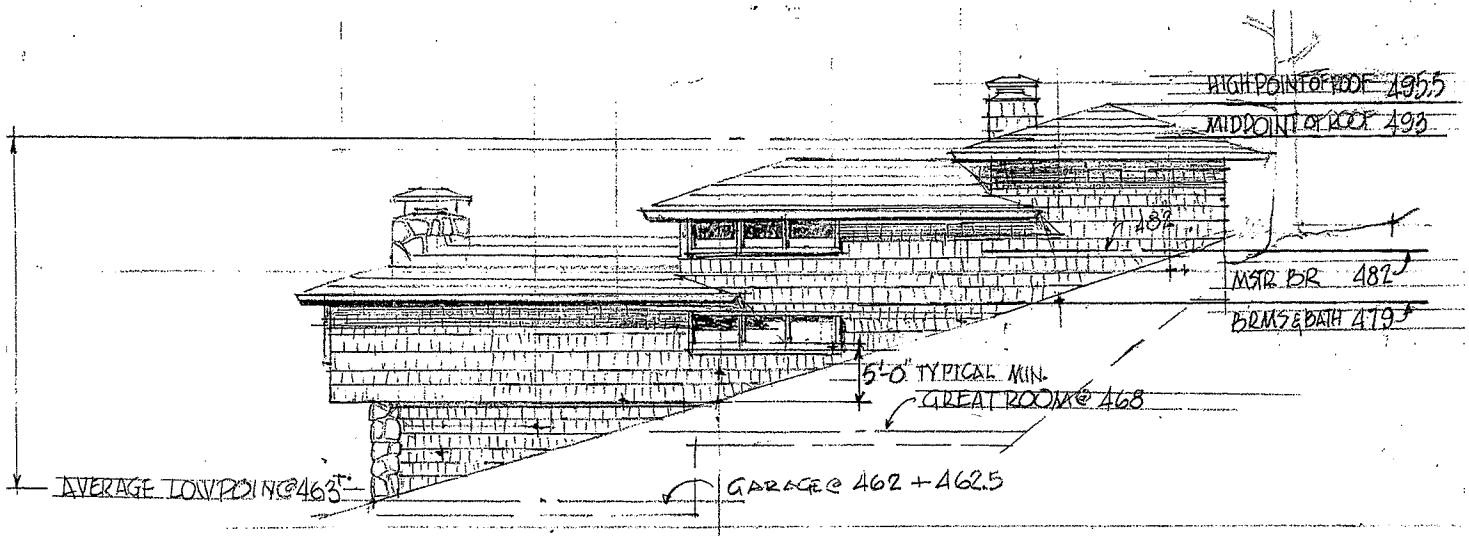


LOWER FLOOR PLAN

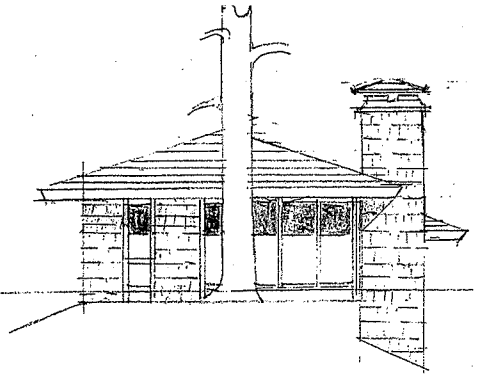
AREA CALC'S. SITE AREA = 26000 SF

LOWER FLOOR	6305 S.F.
UPPER FLOOR	17255 F.
GARAGE FL.	5435 F.
TOTAL HOUSE	23555 F.
TOTAL HOUSE & GARAGE	28990 S.F.
FOOTPRINT	17225 S.F.
% 1725/26000	06.7%

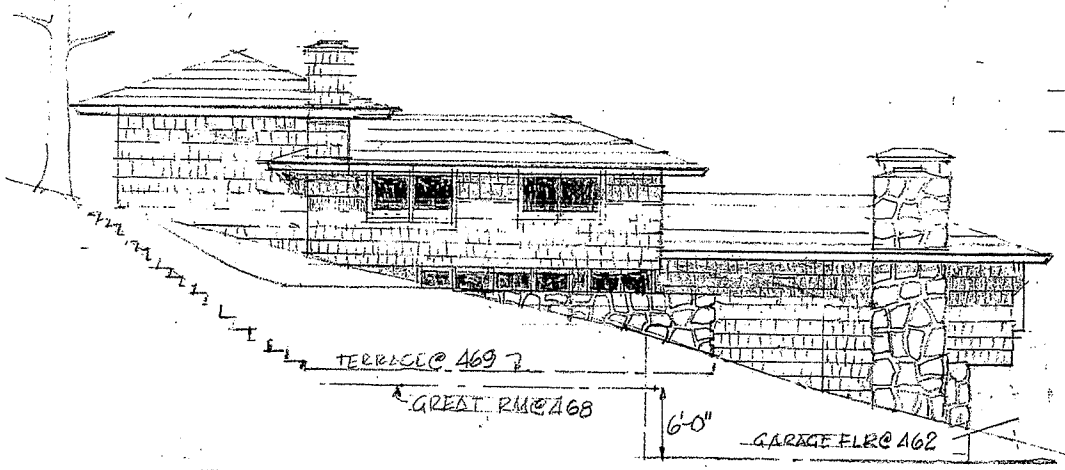
HOLT RESIDENCE


HIGH POINT OF ROOF 495.5
MIDDOINT OF ROOF 493
MSTR BR 482
BRMS & BATH 479
5'-0" TYPICAL MIN.
GREAT ROOM @ 468
AVERAGE LOW POINT @ 463'
GARAGE @ 462 + 462.5

EAST ELEVATION

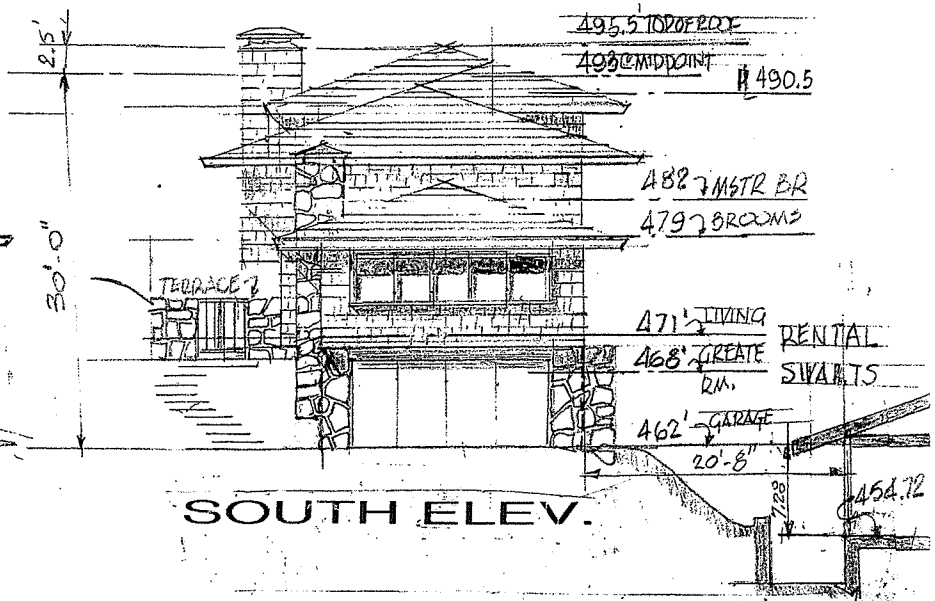


NORTH ELEV.



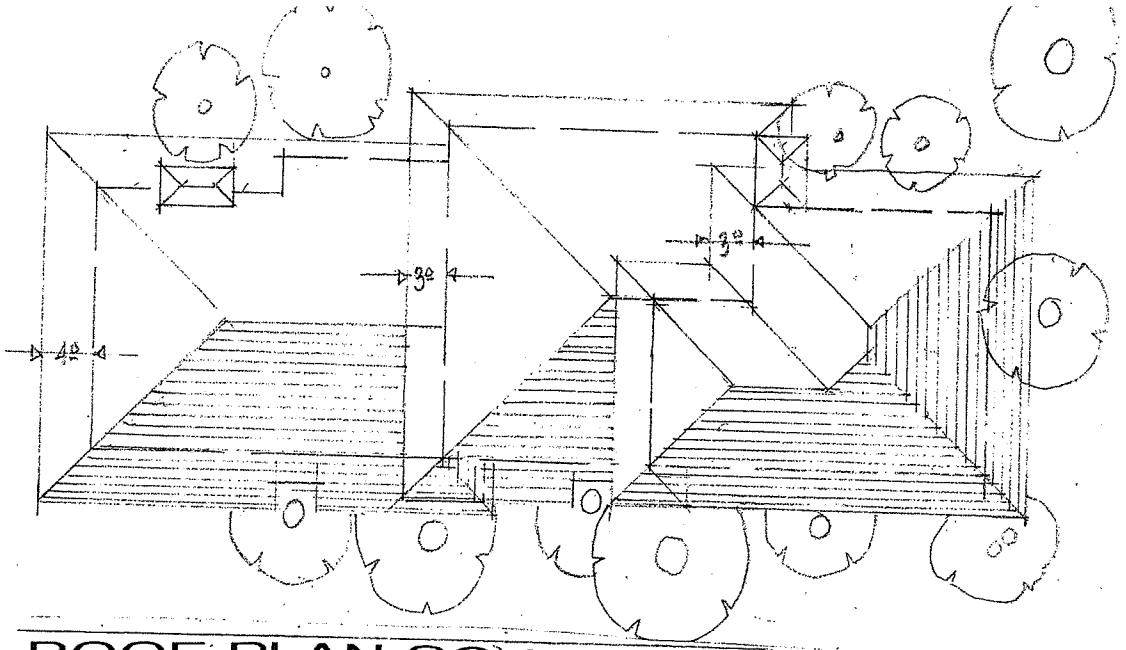
WEST ELEVATION

SCALE 1IN. EQUALS 10 FT.

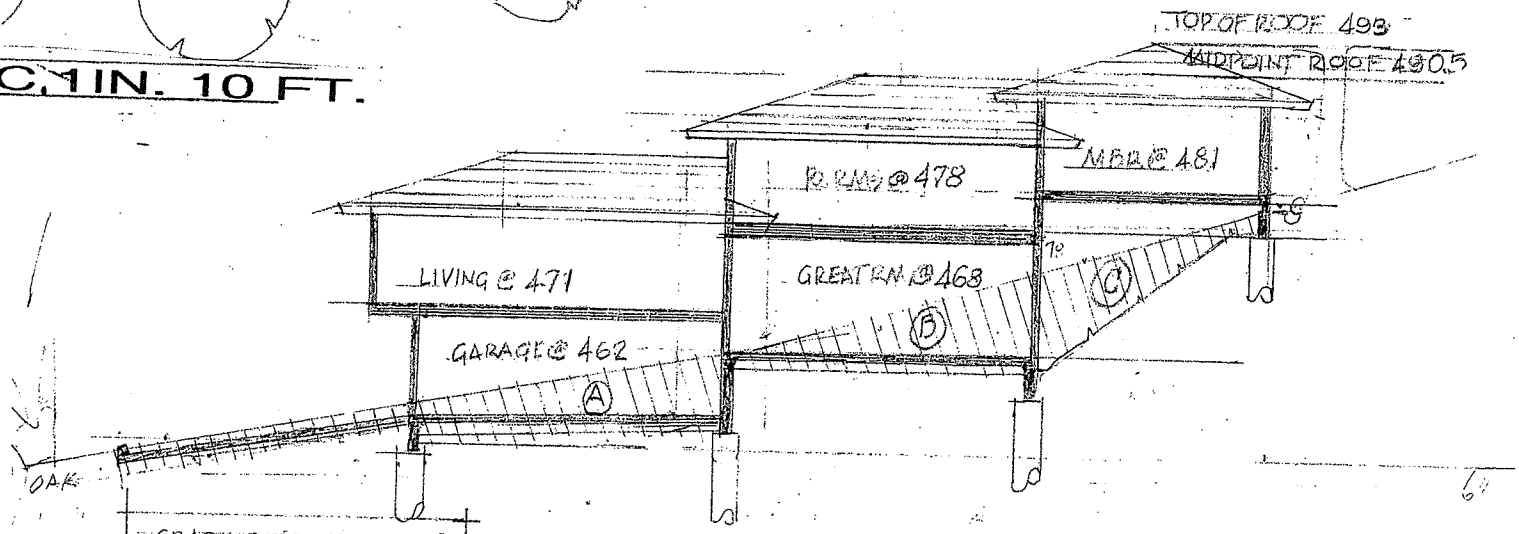


SOUTH ELEV.

HOLT RESIDENCE



ROOF PLAN SC. 1 IN. 10 FT.



GRADING CALC'S - CUT

(A) 2 2/3 × 6 × 8 (2×8×8+) = 164 C.Y.

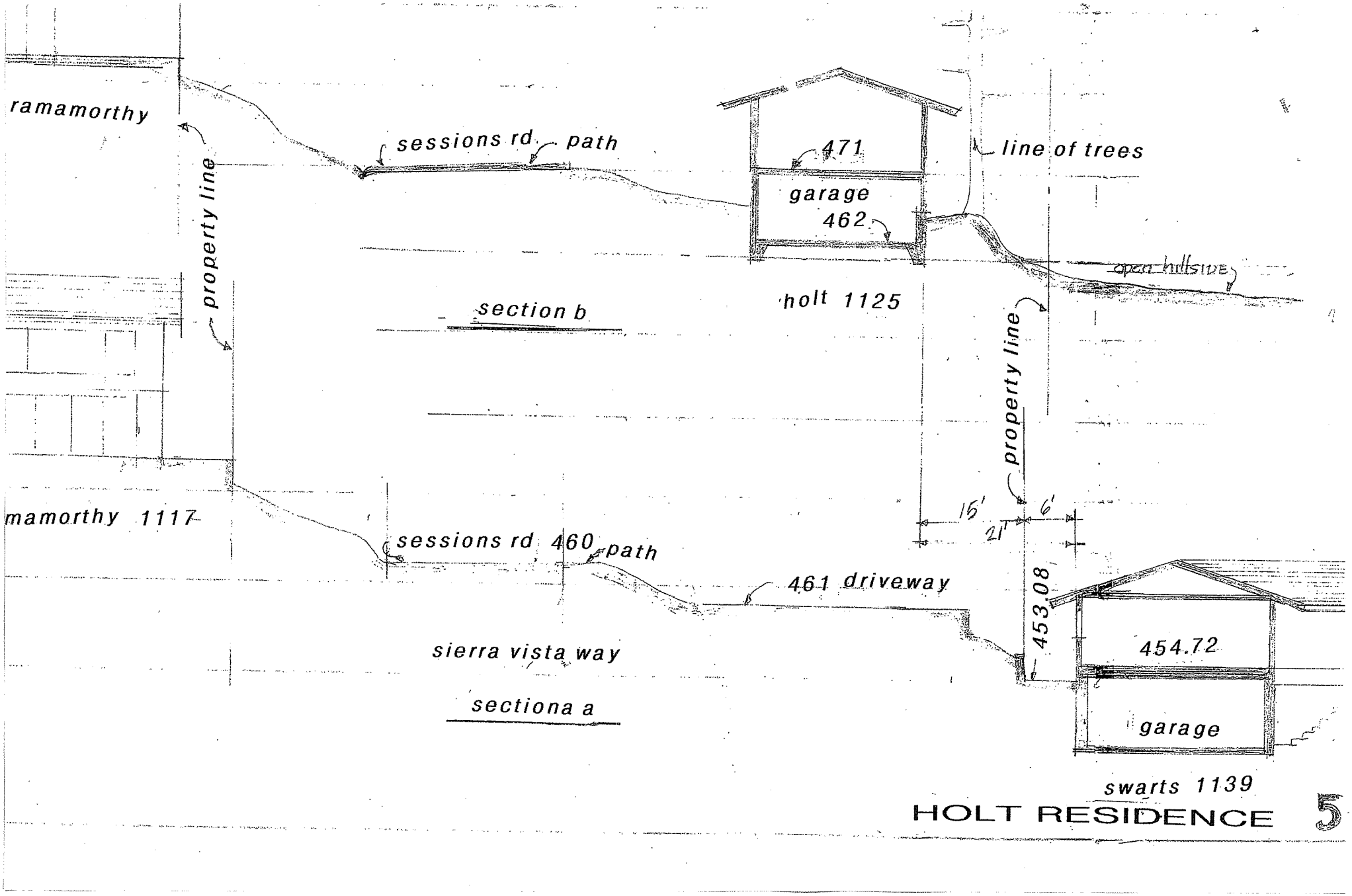
(B) 2×8×8 = 128 C.Y.

(C) 1 1/2 × 12 × 8 = 144 C.Y.

TOTAL CUT = 436 C.Y.

SECTION A

HOLT RESIDENCE 4



HOLT RESIDENCE 5

Attachment 5 - PC Minutes, Report, Correspondence 6/5/08

Commissioner Lovitt wanted confirmation from the engineer that the size of the home is sufficient to address his concerns now as well as if any additional development were to occur. Commissioner Lovitt made a motion to continue the application to the July 3, 2008 Planning Commission meeting to allow the applicant to meet with the City Engineer and provide documentation to address his concerns relating to stormwater practices, to allow the applicant to revise the project so the it does not include the proposed relocation of the existing oak tree, and to allow staff to prepare a resolution indicating the Commission's preference for tree removal and mitigation both on and off-site.

Commissioner Holt seconded the motion which carried (5-0-0).

Staff stated that revised plans will be due two weeks prior to the next public hearing. Staff also indicated that additional public notice will not be provided for the next Planning Commission meeting.

Commissioner Holt recused himself for the following item at 8:10p.m.

HDP47-07 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING: Request for a hillside development permit pursuant to Section 6-2065(a)(8) of the Lafayette Municipal Code (LMC) for site and massing determination for a new two-story, single-family residence proposed at 3,507 gross square feet in size on a vacant 26,340 square foot parcel within the Hillside Overlay District, located at the intersection of Sierra Vista Way and Sessions Road (Tract 5332 Lot 66); APN 232-052-019. Once a house site has been established by the Planning Commission, the applicant will submit full design plans for a hillside development permit and public notification will be provided again at that time.
Recommendation: Consider the matter, take public testimony, provide direction to staff and the applicant and continue the matter to a date certain.
Project Planner: Christine Sinnette, Tel (925) 299-3241, csinnette@lovelafayette.org

Christine Sinnette, Senior Planner gave a staff report stating that phase 1 of this application is to determine the appropriate siting and massing of a new home on the property. A subsequent phase 2 application would include review of the design and impacts of the project. She said the applicant previously submitted a phase 1 application for a 4,226 square foot, two-story home on the east side of Sessions Road. This new application includes a reduced house size and redesign of the building mass and site layout. The house is now 3,507 sq. ft. in size. The building is two stories and 28.5 feet high. The building mass has been designed to step with the terrain presenting one- and two-story elements and differentiated rooflines when approached from lower Sessions Road. Foundation retaining walls are used to bunker and set the building into the grade. The project architect has attempted to set the building as far up Sessions Road as possible to create an offset from the house to the east and has increased the setback to 13-feet at the recreation room to provide for more separation. Ms. Sinnette noted that the property is zoned R-10 and is designed to comply with the setback requirements of the zoning district. It is City practice that when proposed development abuts an easement for pedestrian and/or vehicular access, the applicable setbacks are taken from the easement right-of-way. The ten-foot side yard setback has been taken from the outside of the 50-foot wide trail easement which also encompasses the paved portion of Sessions Road. Ms. Sinnette indicated that included in the massing plan is a detached shop. While the house meets the required side yard setback, the shop is setback only three feet from the eastern property line. The shop is considered an accessory building and the zoning ordinance allows for a 3-foot setback for accessory buildings. Two proposed parking spaces, located outside the setbacks are shown on the site plan. She said 12 redwood trees and 8 Canary Island pines would have to be removed to accommodate the development as proposed.

She noted the application has been reviewed by City Engineer, City Traffic Engineer and the Contra Costa County Fire Protection District. Applicable comments will be made conditions of approval. None of the comments preclude or significantly impact the development potential of the property. Ms. Sinnette indicated that a number of public comment letters have been submitted on this application. Most of the letters state opposition to development of the property. Other issues include legal status of the lot, impact of an easement across the lot, location of the trail and easement, size, design, and location of the home, traffic safety, tree removal, and appropriateness of a Planning Commissioner as project applicant. Staff has attempted to address these issues in the staff report. Ms. Sinnette concluded by stating while it is clear that

the topography of the subject parcel presents a unique situation, the proposed building site is the logical site for any development. Staff recommends that the Planning Commission conduct the public hearing, review the proposal, provide comment and direction to staff and the applicant, and continue the matter to a date certain.

Chair Mitchell disclosed that Mr. Swartz who is an affected neighbor did some work at his house 16 years ago.

Commissioner Ateljevich asked how staff determined the lowest foundation wall.
Ms. Sinnette showed the Commission on the plans where she found the lowest foundation wall and stated that the average of the lowest foundation wall is 470.

Commissioner Ateljevich stated that you first find the lowest grade then find lowest foundation wall. She said it is the midpoint between 460 and 461 which should be 460.5. She said it should be measured from the south elevation mid point and that it is one foot short in the report.

David Bowie spoke on behalf of Mr. and Mrs. Holt. He said he did not have a lot to add to the staff report. He stated the City Attorney has given the Commission a way of resolving the concerns of neighbors. He said the issue is whether or not there is an easement on this lot. He noted that the City attorney said it is not something City has to act on which makes the Commission's task easier. He indicated that the neighbor comments are irrelevant to a determination on this phase of the Hillside Development Application. Mr. Bowie stated that this is a constrained lot where there are only two potential places to put the home and so in effect the siting determination has been pre-determined by the constraints of the lot. He noted that this application does not require a variance, that it meets all criteria for approval and care has been taken to make this as unobtrusive as possible and not impact neighbors. Mr. Bowie stated that the home has been pushed considerably back and that visibility cannot be mitigated anymore than it already has been. He agreed that landscaping can be used if there is any impact. He stated that the neighbor's lot does not comply with setbacks and because of the change in grade and position of the home on the lot the proposal is unobtrusive. He noted that if you were to make this a smaller home it would not have impact on anyone anyway because no one sees it. He agreed that if you drive up and down Sessions you may be able to see it but that drivers will likely be paying attention to the road not the home. Mr. Bowie noted that there were concerns in some correspondence in the staff report regarding the adequacy of the road. He indicated that Sessions is a private road in all respects and the City has no responsibility to make any improvements, but that it is up to the neighbors to repair or widen the road. He said Mr. Martin will answer any questions regarding engineering. He stated the applicant did respond to comments from Mr. DeLeuw. Mr. Bowie noted that the road cannot be widened to the east or it would become unstable. He reserved his remaining time for rebuttal.

Howard Martin from Schell and Martin engineers stated that the road is in its ideal location right now and if you push it to the east it will become too steep. Mr. Martin stated that Tony Coe was concerned about drainage because the top of the parcel is in a draw but the roadway handles the entire flow from this canyon. He stated that the issues have been discussed with Tony and cleared up.

Chair Mitchell asked if there is a formal drainage system along the west side of Sessions. He stated that it appeared the slope was going to the lowest spot which is approximately where the house is.

Mr. Martin stated that there is a drainage swale and an asphalt berm. He said the water flows down the drainage ditch on the side of Sessions to a long stormwater inlet.

Chair Mitchell clarified that the hill slopes down from the east side.

Mr. Martin noted that water that hits the slope goes under the pavement. He said it is likely that years ago the water went down there but that creating the road altered the drainage pattern and it is not a concern.

Commissioner Ateljevich asked where the garage is located.

Ms. Sinnette stated that there is no garage.

Commissioner Ateljevich asked if there is parking space under the bridge.

Ms. Sinnette clarified that there is no requirement for covered parking.

Commissioner Ateljevich stated that the gap under the bridge looks like a bedroom

Ms. Sinnette noted the parking is on top of the bridge.

Chair Mitchell opened the public comment period.

Maeve Pessis, 1118 Laurel Drive representing Valley View Estates Improvement Association, thanked the City for the official notice of the project that she had believed to have been withdrawn in 2007. She stated she was familiar with the project. She expressed concern regarding the removal of trees that could result in destabilizing the already unstable hillside and changes in water flow. She said that water flow has been a long standing concern so much so that the developer put in an underground drainage system through Sessions road properties that outlets onto Laurel Drive. She said water moves from Sierra Vista through Valley View Estates and she and her neighbor experience streams on their properties during wet weather. Ms. Pessis stated that the hillsides are unstable and is concerned with any development above. She stated that Valley View Estate had a landslide at the top of Laurel Drive, where a portion of the hillside slid over the road onto the residences at 1136 and 1133 Laurel Drive. She said if you were to drive there today you would see slumping of that same hillside. She hoped the Commission would take her concerns about hillside stability and water flow into account when they assess the merits of the Holt application. She showed the Commission a map the neighborhood association put together and pointed out the location of the landslide. She mentioned she liked Tony Coe's idea of a hydrology report for this highly unstable land.

Jeff Swarts, 1139 Sierra Vista Way, stated that his home is directly next to the Holt property. He felt that the Commission shouldn't even discuss siting and massing because the lot should not be built on. He stated it has not built on for 50 years because of the excessive water. He said every year 3 different culverts are covered with mud and he cleans the debris and mud so that the water can flow through. He referred to the soils report in the staff report and stated that just off the property line a slide is shown. He said there is still a massive mountain on the east side of the gully that sheds a lot of water. He indicated there were two subdivisions denied because of inadequate turnaround space. He stated that small improvements have been made to make it more lot like. He noted there is now a five foot retaining wall. He noted that to accommodate the Fire District's recommendation there would need to be a slight curve in the road to get grade transition. Mr. Swarts said every car using the road has a bumper hitting the ground. He suggested using the full easement to make the road safer. Mr. Swarts stated that all windows on the proposed home look in to his backyard. He said the home is 35' above his home and it looks into his entire backyard and all his rooms. He said the only privacy he would have would be in his front yard. He said the shop should be a garage.

Ken Sargent, 15 Sessions Road, stated he is uphill from the proposed project. Mr. Sargent asked whether or not there is 5 day requirement for staking and elevation. He stated that if that is the case it was not met. He noted that the poles have been up for 4 days not 5 days prior to the hearing. Mr. Sargent stated that he did not agree with Mr. Bowie's statement that the home is as unobtrusive as possible. He stated that people are going to see a 3,500 sq. ft. two-story house in the middle of the driveway. He stated he thinks the house is inappropriate in terms of mass for this site. He also indicated that as a neighbor he objects very strongly to the removal of 22 redwood trees from this property. He noted that the staff report says 180 replacement trees could be planted but he suggested that the lot is not large enough to accommodate all those trees. He then stated that visitor parking is an issue. He indicated that when residents have parties visitors park beside the road. He indicated that the most likely place for an accident to happen would be a party at the proposed house with cars parked on both sides of the roadway all the way down to the turn off from Sierra Vista. He stated there is no place for visitor parking, which begs the question how suitable is the site for a house.

Chair Mitchell asked staff to respond to the comment about when staking should occur.

Ms. Sinnette stated there is no requirement, which is why the visibility analysis was not in the staff report.

C.W. Chung, 15 Northridge Lane, stated he lives uphill from the proposed development. He stated he is the current president of the Northridge Park HOA of which 13 members are present. Mr. Chung indicated that as an association they objected to Mr. Holt's first proposal. He stated that each of the 22 homes on Sessions Road and Northridge Lane has an access easement covering the totality of the lot. He stated the lot was created as an easement and not to be built upon. He stated the association is objecting to this second proposal for the same reasons. He stated he is disappointed at the stand the City Attorney has taken in that she has left the conflict of easement to the homeowners. He said the homes were built with strict scrutiny through the City Engineer, the planners and the Commission. He said strict standards were applied for access and slope stability. He stated it is the City's responsibility to fight for our rights.

Vice Chair Lovitt asked staff to clarify if the City has jurisdiction over private easements, as he understands it the City has no jurisdiction.

Ms. Sinnette stated it is true that the City does not have jurisdiction and does not make road repairs or engage in traffic control on private roads.

Lai Yee Chung, 15 Northridge Lane, stated she lives uphill from the subject property. She said she is really worried about parking and that they don't even have a garage. She thinks the project should go to City Council. Ms. Chung invited the Commission to go and visit the site as a layperson can understand why it is not a good idea to build a home there.

Chair Mitchell assured Ms. Chung that all Commissioners have been to the site.

Jeffery Harmon, 8 Sessions Road, stated that he recently purchased the property that sits right on top of subject property. He said he expects to be most impacted by the decision. He said he saw the poles on Sunday and asked "are you kidding?" He referenced the letter he wrote the Commission and he asked the Commission to consider the impacts of removing the 22 trees in terms of safety and protecting his home and the whole region there.

Lakshman Watawala, 7 Sessions Road, stated that the City Attorney has determined it is a private easement and staff has determined that the required setbacks have been satisfied, but he said you have to know about the easement before you can know about the setback. He indicated that on his deed it specifically says it is the entire lot. He noted that in the paperwork last year it is very clear the easement east is the entire property. He said he doesn't know how staff is making the determination when the easement has not been determined by the City.

Chair Mitchell asked staff to clarify.

Ms. Sinnette stated if you don't take into account whether there is or is not a lot line to lot line easement and you just look at the functional roadway, Sessions Road is within a 50-foot easement. She said there are two easements there, one is a trail easement and there is a PG&E easement. She said it may be true that there is no recorded meets and bounds description of a road way easement of 50 feet. She said setbacks have to been taken from vehicular or pedestrian access. She stated the setbacks were applied from the 50-foot pedestrian easement.

Chair Mitchell asked if the road is smaller than the easement.

Ms. Sinnette stated that it is and when the trail easement was plotted for the 1994 subdivision map the engineers ran the 50-foot easement along the centerline of the pavement.

Commissioner Ateljevich asked if the only recorded easement is trails easement.

Commissioner Chastain clarified that there is a recoded trail easement, but no recorded road easement.

Ms. Sinnette confirmed Commissioner Chastain's statement. She said she has not completed her research but that she does not think there is a recorded document that describes the meets and bounds of 50 feet of vehicular right of way on that property.

Chair Mitchell closed public portion of the hearing.

Mr. Bowie clarified that Ms. Sinnette is correct that there is not a recorded meets and bounds legal description of the easement, however it is not correct to say there is no recorded easement. He stated there is a document by Western Guaranteed Title Company in which there is a recorded grant of easement, not a meets and bounds description, however there is a 50-foot easement. Mr. Bowie stated there is an easement because custom practice and usage within the City of Lafayette is to look at the existing situation and build off it, which is what Mr. Martin did. He said the trail easement is more specific. He said he appreciates the comments and concerns of the neighbors about the trees and drainage. Mr. Bowie stated that Mitch Wolfe the soils engineer found evidence of a landslide and did find this is a developable lot. He noted that as part of the development the applicant will improve stability of the soil and will be required to improve drainage. He noted that due to the easement, the home is setback very far and there will be a 50-foot driveway which is more than most neighbors, so guests can park in the driveway. Mr. Bowie stated that the City ordinances have driven the design with regard to the garage. He said since accessory buildings can be three feet from the property line, but garages cannot be it is an accessory building. He reiterated that because it is a legal lot the applicant is entitled to develop it. He stated there would be little benefit if the Commission decided to reduce the size of building. He said the home is setback miles off the street, only has a mild impact and the massing consistent with Sessions Road. Mr. Bowie noted if you cut anything out of the proposal any adverse impacts are not reduced.

Commissioner Chastain asked if the visibility analysis will be in the next report.

Ms. Sinnette stated that it would. She said if the Commissioners have looked at story poles they can begin to comment, however she had not prepared a formal visibility analysis. She reiterated that the Commission could provide direction now, but that there will be additional analysis in the next report.

Commissioner Chastain clarified that a legal lot of record is entitled to be built upon.

Ms. Sinnette clarified that a legal lot is entitled to make use of the property in an economically viable manner within the zoning and other laws of the city.

Chair Mitchell clarified that the City Attorney found that it is legal lot.

Commissioner Ateljevich asked the source of the topographic map.

Ms. Sinnette indicated that it was a ground survey.

Commissioner Ateljevich stated that the Commission needs accurate height information and the City may need to advertise for a variance. She stated the Commission may need to continue the item and she would have appreciated a design that retained many of the redwood trees which would have provided enough screening to hide it. She noted that if the trees are maintained, the home would have to been smaller and shifted up the hill away from the neighbors house, but it would provide the natural screening that the Commission always looks for in Lafayette and they are still looking for that.

Chair Mitchell asked the Commission if they are comfortable with the site.

Commissioner Ateljevich stated she saw no reason why the project can't move forward.

Commissioner Chastain stated that he is not comfortable. He said it is such a constrained lot. He hoped the neighbors heard the attorney says the City has no jurisdiction over improving the road which limits that

discussion. He said that because the lot is so constrained, there has to be extraordinary effort in developing it. He also noted that it is true that developing a site can provide stability to the hillside and the geo-engineer involved is very respected. He said that privacy is the biggest issue with the proposal.

Commissioner Ateljevich asked about the letter from Lynn Hiden regarding the conditions of approval.

Ms. Sinnette stated she received that letter today and had not had time to research it.

Commissioner Ateljevich asked her to do it for the next meeting.

Vice Chair Lovitt stated that the application as it sits now fails on the design review counts of privacy and scale with the site. He stated that the site constraints are evil, but that trying to put an average size house on this site does not work. He thinks there are a lot of ways to solve that problem.

Chair Mitchell agrees with Vice Chair Lovitt siting Section 6-201 of the code that the Commissions are charged with not impacting views. He also stated that the size should be such that there is some outdoor living space. He said he is concerned with size, location, and privacy issues. He noted that even if windows were removed the neighbor would still be impacted.

Commissioner Ateljevich stated it could be possible the applicant should completely redesign.

Chair Mitchell stated that he could not approve it in the condition it is submitted.

Commissioner Chastain stated that the Commission is reviewing siting and a new siting may be in order. He said he fully supports Commissioner Ateljevich's idea of moving it up the hill, but maybe not as far as she had suggested, so it can be landscaped. He said the farther up, the more it mitigates privacy concerns.

Vice Chair Lovitt asked if the retaining wall is existing.

Ms. Sinnette stated that the retaining wall was not put in by the owners; it was on the site previously. It will be removed and a new retaining wall installed.

Vice Chair Lovitt asked if it would be farther from the existing house.

Ms. Sinnette stated that it would be at the property line and it was her understanding that the neighbor at 1139 has encroached on and excavated the subject property and so would have to reestablish grade with the 3-foot retaining wall which would also help with the drainage system.

Vice Chair Lovitt asked how much closer it would be

Ms. Sinnette stated 6 feet away.

Commissioner Chastain stated that the goal is to move the development farther up hill to create less impact on privacy. He indicated that a hydrology report would be helpful in that a lot of concerns would be addressed and it would help the Commission understand how the development can proceed.

Chair Mitchell asked staff about visitor parking.

Ms. Sinnette noted that there are two visitor spaces on the plan now, but that there is no requirement for guest parking in single family neighborhoods. Ms. Sinnette confirmed that the hydrology report would be a preliminary one.

Commissioner Chastain agreed and said he would be looking for what mitigation would be required and would it be possible and what would it look like.

Vice Chair Lovitt stated that there were some trees with branches lopped off when he visited the site.

Commissioner Ateljevich said there should be no pruning at this point.

Ms. Sinnette said she was unaware of that and thought maybe it was due to the story poles. She said she would look into it.

Commissioner Ateljevich made a motion to continue the item to July 3, 2008 for redesign consistent with Commissioners Chastain and Ateljevich's discussion moving the house uphill as far as feasible - about the 470 contour line, designing a smaller house due to the constraints on the lot and for parking to be considered.

Vice Chair Lovitt seconded the motion which carried (4-0-0)

OTHER BUSINESS DRC Liaison Assignments – August - December 2008
Chair Mitchell decided to postpone the Design Review Commission Liaison discussion since two Commissioners were missing.

COMMISSIONERS' ACTIVITY REPORT
None

PLANNING MANAGER'S REPORT
Ms. Sinnette noted that the Commissioners will be getting staff reports for the June 23, 2008 Joint Meeting.

ADJOURNMENT
Chair Mitchell adjourned the meeting at 9:20 pm.

City of Lafayette Staff Report

For: Planning Commission

By: Christine Sinnette, Senior Planner

Date Written: May 28, 2008

Meeting Date: June 5, 2008

Subject: **HDP47-07 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING**: Request for a hillside development permit pursuant to section 6-2065(a)(8) of the Lafayette Municipal Code (LMC) for site and massing determination for a new two-story, single-family residence 3,507 gross square feet in size on a vacant 26,340 square foot parcel within the Hillside Overlay District, located at the intersection of Sierra Vista Way and Sessions Road (Tract 5332 Lot 66); APN 232-052-019.

Statutory Deadline: July 1, 2008 (without PSA extension)

SUMMARY OF REQUEST

Hillside Development Siting and Massing determination by the Planning Commission pursuant to section 6-2065(a)(8)(A) of the Lafayette Municipal Code (LMC) to allow development on a vacant lot within the Hillside Overlay District. For development of vacant lots in the Hillside Overlay District, a two-step application process is required. Phase 1 is an application for a siting and massing determination by the Planning Commission on the location and size of structures. The phase 2 application is for the review of the design and impacts of the project. Because the focus of the phase 1 application is on siting and massing, the scope of application materials submitted and the level of review and analysis is not as exhaustive as it is for the phase 2 application. Site plans at this stage would include such items as topography, existing infrastructure, and neighborhood context. Architectural plans should show general massing, building heights, and preliminary floor plans but may not show specific design details. Once a location and overall size are determined, the phase 2 application would be submitted.

Review and analysis of the phase 2 application is much more rigorous and requires a detailed site plan including site improvements like landscaping, driveways, patios, swimming pools, etc. and preliminary grading and drainage plans. Full architectural and floor plans would be submitted along with proposed building colors, materials, and exterior lighting.

Trigger	Yes	No	Trigger	Yes	No
Within a protected ridgeline setback?	☐	☒	Grading > 50 cu. yds.?	☒	☐
Within 100-ft. of a ridgeline setback?	☐	☒	DR required as condition of approval?	☐	☒
In the Hillside Overlay District?	☒	☐	SFR Development > 6,000 sq.ft.?	☐	☒
Over 17-ft. in height to ridge?	☒	☐	Variance requested?	☐	☒

BACKGROUND

The applicant submitted a phase 1 application (HDP10-07) in March 2007 for a 4,226 square foot, two-story home on the east side of Sessions Road. Issues raised during application review included legal status of the lot, impact of an easement across the lot, location of the Petar Jakovina easement and trail, size, design, and location of the home, traffic safety, tree removal, and appropriateness of a Planning Commissioner as project applicant. Several public hearings before the Planning Commission took place on the application in order to resolve these issues. Although the applicant agreed to an extension to statutory time limits of the Permit Streamlining Act, many issues remained unresolved at the final deadline and the applicant withdrew the application on July 12, 2007. A new phase 1 application has now been submitted and includes a reduced house size and redesign of the building mass and site layout.

See Attachment 1 – Project Location and Attachment 2 – Aerial Photograph.

SITE CONDITIONS AND LOCATION

Location:	Lot 66; intersection of Sierra Vista Way and Sessions Road
Existing Development:	Vacant except for Sessions Road which bisects the property south/north and a paved drainage swale along the western edge of the Sessions Road pavement
Existing Vegetation:	Native and non-native shrubs and trees including pines, oaks, and redwoods
Topography:	Steeply sloped upward south to north Low: 450' High: 506'
Lot Size:	26,340 square feet
Zoning:	R-10, Single Family Residential District - 10
General Plan:	Medium Density Single Family Residential; up to 6 du/acre
Surrounding Uses:	Single-family residential development; an easement for a portion of the Petar Jakovina Trail is contiguous with the Sessions Road right-of-way

PROJECT DESCRIPTION

During review of HDP10-07, the Planning Commission asked the applicant to show an alternate building site on the west side of Sessions Road. This side of Sessions Road had not been surveyed at that time. In preparation of this new application, the project engineer conducted a topographic survey of the west side and plotted the contours at two-foot intervals. Upon further evaluation and calculation of the average slope for this area pursuant to section 6-2044(a), LMC, it was discovered that the average slope is 57.3 percent. Since it would not be feasible to construct a home on the west side without significant grading, staff did not require the applicant to provide a siting and massing study for the west side. The average slope of the east side of Sessions Road is around 25 percent.

Available Building Area	3,962.5 s.f. on east side of Sessions Road
Gross Floor Area:	Conceptual plans show a gross floor area of 3,507 s.f. consisting of a 1,289 s.f. upper floor, 1,753 s.f. lower floor, and 465 s.f. shop
Building Footprint:	2,494 s.f. including open parking deck
Building Mass:	2 stories
Height:	28.5 feet as measured from average of the lowest and highest grade at the lowest foundation wall on the east elevation to the middle of the roof
Grading:	Approximately 50 cubic yards cut and 280 cubic yards fill
Impervious Area:	4,395 s.f.

Although not required for a phase 1 application, a preliminary drainage plan has been provided. As designed, surface runoff would flow through an underground pipe system to a new Christy inlet installed behind the wood wall on Sierra Vista Way and conveyed to the existing stormdrain on Sierra Vista Way. Stormwater runoff from the building roof will flow through a rock-lined swale two feet wide and nine inches deep running along the eastern property line. The swale will empty into the Christy inlet and then into the stormdrain system on Sierra Vista Way.

See Attachment 3 – Context Map and Site Plans and Attachment 4 – Building Elevations and Floor Plans.

CEQA

Staff has determined that this project is exempt from the California Environmental Quality Act. It is only a determination on a potential building site and is covered under the general rule that

CEQA applies only to projects which have the potential for causing a significant effect on the environment. Any future plans to develop the property will be subject to CEQA review on its own merits.

CONFORMANCE WITH ZONING REGULATIONS

The property is zoned R-10, Single-Family Residential District – 10 and has been zoned such since at least 1974. The property is also located in the Hillside Overlay District; however, it is not located within or near a ridgeline setback. Development standards for the R-10 District include the following:

Front Setback: At least 20 feet.

Side Yard: Aggregate side yard of at least 20 feet; no side yard less than 10 feet wide.

Rear Yard: At least 15 feet

Parking: 2 spaces covered or uncovered located outside the side yard or front yard setbacks

The front setback for this property is Sierra Vista Way and the rear setback would be established from the northern property line. It is City practice that when proposed development abuts an easement for pedestrian and/or vehicular access, the applicable setbacks are taken from the easement right-of-way. As applicable, the ten-foot side yard setback has been taken from the Sessions Road right-of-way. As can been seen on the site plans in Attachment 3, the proposed house meets the required setbacks. Included in the massing plan is a 465 s.f. detached shop. While the house meets the required side yard setback, the shop is setback only three feet from the eastern property line. The shop is considered an accessory building because it is a subordinate building, the use of which is incidental to that of the main building. §6-302 LMC. As allowed in the R-10 zoning district, a side yard setback may be reduced to three feet for an accessory building or structure if it is set back at least 50 feet from the front property line. §6-728 The shop building is setback more that 130 feet from the front property line.

Two parking spaces located outside the side and front yard setbacks are required for this single-family home. The applicant has indicated that the two required spaces are the ones adjacent to the north and south walls of the house. Parking space #1 is located on the deck on the north side of the house. This deck has a concrete floor. Parking space #2 is located on the south side of the house on the turf block surface. Both of these spaces are uncovered and outside the required setbacks. Two guest spaces are shown at the north end of the house within the side setback areas. Since they are auxiliary spaces, they can be located within setback areas.

AGENCY COMMENTS

This phase 1 application has been reviewed by City Engineer Tony Coe, City Traffic Consultant Chuck DeLeuw, and the Contra Costa County Fire Protection District. The City Engineer initially reviewed plans dated received November 14, 2007. At that time, he expressed concern about the steepness of the driveway and exit movements. The plans were revised and resubmitted on April 3, 2008 and are the ones currently under review. These revised plans have been reviewed by Mr. Coe. The driveway grades have been reduced to 11 and 16 percent. Review of turning movement diagrams on Sheet 6 of the site plans indicates that the design for the two required parking spaces complies with standards for turning radii. In terms of site drainage, the preliminary design is generally adequate but the phase 2 application should include a hydrology study to support the final design.

Mr. DeLeuw also reviewed the November 2007 plans. Most of Mr. DeLeuw's comments are design oriented and would be addressed during the phase 2 application (see Attachment 5). The current plan responds to Mr. DeLeuw's comment to design the parking so that drivers can turnaround and exit the driveway frontwards to improve site distance and facilitate turns onto Sessions Road.

Fire District comments are included as Attachment 6. The Fire District did not identify any problems with emergency access, driveway or roadway grades, fire apparatus turnarounds or other problems or deficiencies that would significantly impact the development potential of the property. Other comments related to adequate water supply, installation of a fire hydrant, and roadway surface transition from Sierra Vista Way to Sessions Road would be included as conditions of approval during the phase 2 application.

PUBLIC NOTICE AND COMMENT

As required by law, property owners within 300 feet of the subject property were mailed a notice of this public hearing on May 22, 2007. Public notice was also mailed to Northridge HOA. Additionally, the public notice was posted in three locations in proximity to the project site on May 22, 2008. To date, six letters have been submitted from the following parties. (See Attachment 7).

- Jeff Swarts, e-mail correspondence dated May 26, 2008
- Carol Hehmeyer, e-mail correspondence dated May 27, 2008
- Carol Hehmeyer, letter dated received May 28, 2008
- Ken and Arlene Sargent, letter dated received May 28, 2008
- Lakshman Watawala, letter dated received May 29, 2008
- David J. Bowie, e-mail correspondence dated May 29, 2008

In addition to stating opinions on the merits of the project, comment letters have posed questions about the application and planning process and easement(s) encumbering the property. Mr. Swarts asks a series of questions about the project and planning process. In her

e-mail of May 27, Ms. Hehmeyer mentions an easement granted to property owners on Sessions Road and in Northridge. Ms. Hehmeyer's letter of May 28, continues to discuss an easement across Lot 66 and alleges illegal actions on the part of the City. The letter from the Sargents states that their property deed indicates that Lot 66 is part of the access easement for Sessions Road. The letter from Ms. Watawala also describes an access easement across the entirety of Lot 66 and expresses concerns about traffic safety. The letter from Mr. Bowie, attorney for the applicant, provides his opinion on the easement(s) dispute.

Many of the current questions and comments were addressed under the HDP10-07 proceedings. HDP47-07 is a new application and staff will attempt to respond to the comments again.

Traffic study of this intersection/traffic safety. No traffic study has been requested by the City or provided by the applicant for this phase 1 application although the project has been reviewed by the City's traffic consultant. As stated elsewhere in this report, the phase 2 application will be reviewed for potential environmental impacts on traffic, biotic resources, hydrology, etc. once a determination is made on the siting and massing.

Driveway access from Sierra Vista Way. The applicant has designed the project with access from Sessions Road. From an engineering standpoint, this appears to be a better point of access to the building site. The Planning Commission can direct the applicant to provide an alternate access from Sierra Vista Way if it sees merit in considering an alternate access.

Legal status of Lot 66. The City Attorney previously rendered her opinion on this. The property was created through the approval of Tract No. 533-2 filed with Contra Costa County on March 12, 1954. The Tract, La Canyada Park – Unit No. 2, created 32 individual lots. Lot 66 is one of the lots in the Tract and is a legal lot of record that may be developed in conformance with the City's current rules and regulations. This may permit a residence, foster home, church, farming, livestock keeping, and/or any other legal use of the property.

Lot is fully encumbered by easement(s). Although Lot 66 was not a part of the minor subdivision that created the four parcels immediately north of Lot 66, the final map for MS502-94 references document 5054 OR 439, a non-exclusive easement for ingress and egress and utilities. According to correspondence and materials submitted by the public under HDP10-07 proceedings, a full lot-line to lot-line non-exclusive easement exists in various grant deeds of property owners on Sessions Road. According to the May 29, 2008 letter from David Bowie, an indenture agreement and grant deeds in the 1960s limited a non-exclusive ingress and egress easement 50 feet.

Regardless of whether or not a non-exclusive access and utility easement exists on Lot 66, the City Attorney has rendered the opinion that existence of this easement and its impact on Lot 66 is a dispute between private property owners that is best handled privately and potentially in a court of law. The City has no obligation or duty to enforce a private easement. Therefore, the City should continue to process and make a determination on the application. (See Attachment 8 – Memorandum from City Attorney).

Applicant's use of 1994 and 1966 parcel maps. It is unclear what the writer means by this and its bearing on the current application.

Grant of variance for shop building. The shop building and its setback from property line is addressed elsewhere in this report.

25' road easement. It is unclear what the writer means by the question, "Is the 25' road easement determined from the center of the road?" If he is referring to Sessions Road, the paved portion of Sessions Road varies in width from 19 to 23 feet and lies within a 50-foot right-of-way. Improved roadways are typically located within the center of an easement or right-of-way but can be located anywhere within the easement or right-of-way. In the case of Sessions Road, the western edge of the paving is contiguous with the western edge of the right-of-way.

Structure setback. Building setbacks from road rights-of-way and property lines are discussed in the zoning regulations section of this report. No second story decks are shown on the current plans.

Retaining Walls. Current plans show 3 retaining walls. A 3-foot high, 53-foot long retaining wall is shown along the eastern property line. A curved retaining wall forming the terrace on the western elevation varies in height from 1 to 6 feet. A third retaining wall varying in height from 3 to 7 feet provides support for the front entry and building walls. At 7 feet, this is the highest retaining wall. No details of the retaining walls have been provided with this phase 1 application, however, it is expected that the walls will be formed concrete and may exhibit a stucco or stone finish.

Drainage Plans. The applicant has provided a preliminary drainage plan which is discussed as part of the project description. A more detailed plan based on hydrological data will be required during the phase 2 application review. At a minimum, the project will be required to mitigate any impacts from site development and may improve the existing drainage situation.

Trail easement. A 50-foot wide trail easement was dedicated to the City as part of minor subdivision MS502-94 which created four lots along Sessions Road north of the project site. During HDP10-07 proceedings, staff verified with members of the Lafayette Parks, Trails and Recreation Commission that the path of the Petar Jakovina Trail through the project site is on the paved road. Approximately 80 feet north of the project site, the trail leaves the paved road and continues off-road to the west.

According to the City Attorney, the trail easement (Document 98-0044267) provides for vehicular access on the trail easement that is coterminous with Sessions Road and the applicant can access Lot 66 via the portion of the trail easement that is coterminous with Sessions Road. As designed, the project will not impact public access to the Petar Jakovina Trail. It should be noted that the City's brochure for this trail states that car parking for trail access is not permitted on Sessions Road. Trail access is for hiking only.

Building size/footprint. The gross floor area for the proposed buildings is 3,507 square feet. See elsewhere in this report for further discussion. An analysis of the home size and its consistency with the neighborhood will be provided in the next staff report and as may be directed by the Planning Commission.

Tree Removal. An analysis of project impact on existing trees is provided in the trees and landscaping section of this report.

Other comments. A letter writer poses the following two questions: Are there stakes in the field where we can verify his map distances? Can Mr. Holt lower his home and set it more into the hillside?

Regarding the first question, application submittal requirements do not require an applicant to provide ground staking of property lines and proposed improvements as part of the review process; however, the Planning Commission can require it if it is necessary for the adequate review of a project. The second question is answered somewhat in the site development section of this report. During its review of this application, the Commission may request changes or modifications to the project.

STAFF ANALYSIS AND COMMENTS

As stated above, this application is for phase 1 hillside development permit review for the siting and massing of a new home on a vacant lot. Phase 2 will include public hearings before the Design Review Commission and Planning Commission. The scope of the phase 2 application will include design review of building architecture, colors, and materials, exterior lighting, landscaping and irrigation, and grading and tree removal permits. Phase 2 will also include an analysis of project compliance with CEQA. Design issues specific to the current application are discussed below.

Site Development:

The applicant is proposing a 3,507 square foot, two-story single family residence 28.5 feet high. The building mass has been designed to step with the terrain presenting one- and two-story elements and differentiated rooflines when approached from lower Sessions Road. Foundation retaining walls are used to bunker and set the building into the grade. There is a grade difference of about 13 feet between the first floor of the southern end of the building and the adjacent property at 1139 Sierra Vista Way largely due to the excavated cut made into the hillside at 1139.

The house at 1139 predates the surrounding Sierra Vista Way/La Canyada Park subdivision and has less than a 6-foot setback from the property line. The proposed building is set back a minimum of 10 feet from the eastern property line and the project architect has attempted to set the building as far up Sessions Road as possible to create an offset from the house at 1139 and has increased the setback to 13-feet at the recreation room to provide for more separation. The

western elevation provides greater wall articulation than the eastern elevation as the building follows the curve of the Sessions Road right-of-way. Out door living area would be provided by a terrace overlooking Sessions Road.

Trees and Landscaping: The eastern side of Sessions Road is heavily wooded and existing trees are namely Canary Island pines and redwoods. Other species include coast live oak, valley oak, Italian stone pine, and California pepper. Development of the property would require approval of a category II tree permit for the removal of protected trees as required by Chapter 6-17, Tree Protection, LMC. For this undeveloped property, any tree of any species with a diameter of six inches or more is considered a protected tree.

The applicant has submitted arborist reports from Baefsky & Associates, dated July 6, 2007 and April 1, 2008. The reports analyze the probable impacts on specific trees from proposed construction and provide details for the preservation of remaining trees (see Attachment 9.) The reports have been reviewed by the City's landscape consultant, Pennell Phillips of Inside Out Design, Inc. Mr. Phillips states that the submitted arborist reports are thorough and he agrees with the majority of the recommendations presented. Mr. Phillips has provided a table in his report which presents an inventory of trees within the vicinity of the development area, a description of their size, form, and health, impact from construction, and recommended replacement. Of the 30 trees inventoried, 20 trees are proposed for removal with the status of 2 trees yet to be determined. Of the 20 trees to be removed, 12 are redwoods and 8 are Canary Island pines. One native coast live oak could be indirectly impacted by development. Given the poor structure of this oak, Mr. Phillips suggests that no great effort be placed on its preservation. See Attachment 10 for the full report and table from Inside Out Design.

Replacement tree counts for protected trees removed are calculated by the following formula stated in section 6-1707(g)(1), LMC.

> *For each six inches or its fraction of the diameter of the tree to be removed, two 15-gallon trees shall be planted. The diameter of a multi-trunked tree is the sum of the diameters of its component trunks.*

Based on this formula, total replacement tree count would range between 164 and 180 15-gallon trees. For the non-native trees removed from the site, Mr. Phillips recommends replacement trees be specified as either coast live oak or valley oak. Staff recommends that a tree removal permit not be granted by the Planning Commission at this time but be deferred to a future phase 2 application when a more refined development plan is submitted and environmental review conducted.

Visibility: Given the configuration of the lot and the fact that it is bisected by Sessions Road, any development of the site will be highly visible in the immediate vicinity of the site. Constrained by the grade and alignment of Sessions Road and its right-of-way, visible impacts will be difficult to mitigate with landscaping. In order to mitigate some of the visual impact of development, the building has been stepped with the terrain presenting one- and two-story

elements and differentiated rooflines when approached from lower Sessions Road. Foundation retaining walls are used to bunker and set the building into the grade. Visual impacts may be further reduced by careful attention to architectural details and consideration of building materials and colors during the phase 2 application process.

Due to its location within a developed residential area with varied topography and mature vegetation, there will be little to no visibility of the project site from distant, off-site locations.

Geology and Soils: The applicant has submitted a Preliminary Geotechnical Reconnaissance Report prepared by Cal Engineering & Geology, Inc. evaluating the geologic and geotechnical conditions of the site and the suitability of the property for the proposed development. The report states that the site is located near the base of a north-south trending ravine that serves as a natural drainage for the hillside directly upslope from the property. Surficial soils are made up of well-drained clay, sandstone and shale bedrock. Runoff is medium and the hazard of erosion is moderate where the soil is bare. These soils have a high shrink-swell potential.

Reconnaissance level observations revealed that moderate amounts of grading have occurred on the property. The age of the grading is not known, however, it appears to have been done in relation to the creation of Sessions Road and the construction at the adjoining property at 1139 Sierra Vista Way. The construction of Sessions Road required the placement of fill which is estimated to range between one and five feet thick along the roadway. Landslide features have been mapped above the subject property but are judged to have a low potential to impact the property. No readily identifiable evidence of recent landslide activity at the property was observed. The report concludes that, from a geotechnical engineering and engineering geology standpoint, that it is feasible to develop the property as proposed, provided the recommendations of the report are adhered to in the future stages of the project. See Attachment 11 for the full report.

FINDINGS

In order to approve this phase 1 hillside development application for the siting of new development on a vacant lot in the Hillside Overlay District, the Planning Commission must make a series of findings as outlined below.

6-2071 Findings required for approval of a hillside development permit on an existing lot of record.

The hearing authority may approve an application for a hillside development permit on an existing lot of record in the hillside overlay district only after making the following findings:

(a) The development is consistent with the applicable goals and policies of the general plan and is in conformance with applicable zoning regulations;

(b) The development will preserve open space and physical features, including rock outcroppings and other prominent geological features, streams, streambeds, ponds, drainage swales, native vegetation, native riparian vegetation, animal habitats and other natural features;

(c) Structures in the hillside overlay district will, to the extent feasible, be located away from prominent locations such as ridgelines, hilltops, knolls and open slopes;

(d) The development, including site design and the location and massing of all structures and improvements will, to the extent feasible:

(1) Minimize the loss of privacy to surrounding residents and not unduly impact, restrict or block significant views;

(2) Not have a significant visual impact when viewed from lower elevations from public places, using the viewing evaluation map as a guide to establish locations from which views are considered; and

(3) Not interfere with a ridgeline trail corridor or compromise the open space or scenic character of the corridor.

(e) Within 100 feet of a restricted ridgeline area, or when a exception to a ridgeline setback has been granted, the development will result in each structure being substantially concealed by terrain or vegetation when viewed from lower elevations from public places, using the viewing evaluation map as a guide to establish locations from which views are considered.

(f) Development grading will be minimized to limit scarring and cutting of hillsides especially for long roads or driveways, preserve existing geologic features, topographic conditions and existing vegetation, reduce short and long-term erosion, slides and flooding, and abate visual impacts;

(g) The development provides adequate emergency vehicle access, including turn-around space, to the building site and surrounding on-site undeveloped or isolated areas.

(h) Each structure and proposed landscaping complies with the city's residential design guidelines;

(i) The new or replacement vegetation for the development is native to the surrounding area in areas abutting open space and natural areas, such as oak woodland, chaparral, grassland and riparian areas, and conforms to the policies of Section 6-2051; and

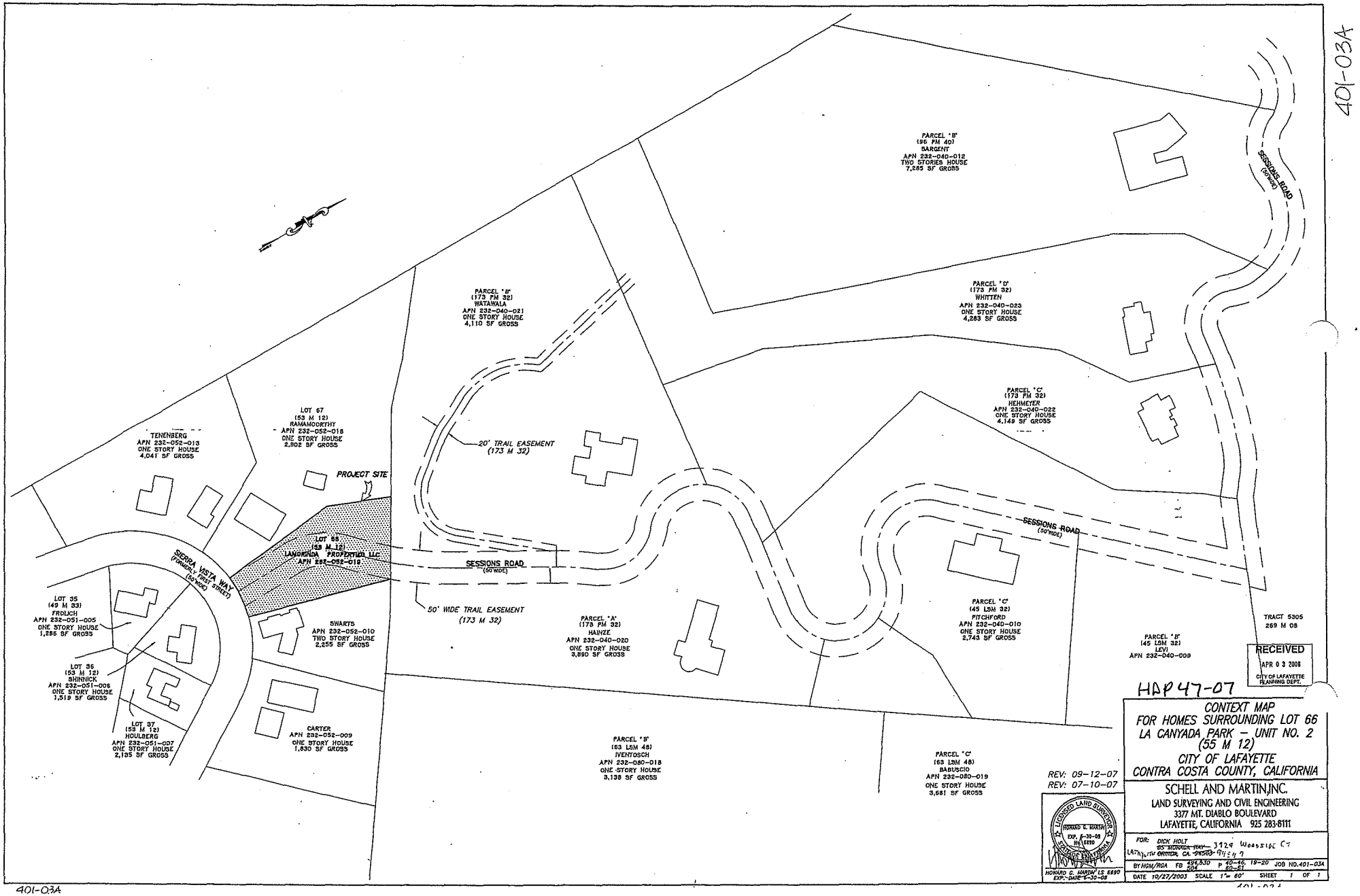
(j) The development will not create a nuisance, hazard or enforcement problem within the neighborhood or the city, nor require the city to provide an unusual or disproportionate level of public services.

STAFF RECOMMENDATION

While it is clear that the topography of the subject parcel presents a unique situation, the proposed building site is the logical site for any development. Staff recommends that the Planning Commission conduct the public hearing, review the proposal, provide comment and direction to staff and the applicant, and continue to the matter to a date certain.

ATTACHMENTS

~~1. Project Location~~
~~2. Aerial Photograph~~
3. Context Map and Project Site Plans; 3 sheets
4. Building Elevations and Floor Plans; Sheets 2 through 7
5. Correspondence from Chuck DeLeuw, City Traffic Consultant, dated January 11, 2008
6. Correspondence from the Contra Costa County Fire Protection District, dated January 4, 2008
7. Public Comment Letters from Jeff Swarts, dated May 26, 2008; Carol Hehmeyer, dated May 27, 2008; Carol Hehmeyer, dated received May 28, 2008; Ken and Arlene Sargent, dated received May 28, 2008; Lakshman Watawala, dated received May 29, 2008; ~~and David Bowie, dated May 29, 2008~~
~~8. Memorandum from City Attorney, dated July 12, 2007~~
9. Arborist Report prepared by Baefsky & Associates, dated July 6, 2007 and April 1, 2008.
10. Report from Inside Out Design, Inc., dated received May 28, 2008
11. Preliminary Geotechnical Reconnaissance Report prepared by Cal Engineering & Geology, Inc., dated May 21, 2007



RECEIVED
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CITY OF LAFAYETTE
PLANNING DEPT.

HAP 47-07

CONTEXT MAP
FOR HOMES SURROUNDING LOT 66
LA CANYADA PARK – UNIT NO. 2
(55 M 12)
CITY OF LAFAYETTE
CONTRA COSTA COUNTY, CALIFORNIA

REV: 09-12-07
REV: 07-10-07

LICENSED LAND SURVEYOR
HOWARD G. MARTIN
EXP. 6-30-08
No. 6890
STATE OF CALIFORNIA

HOWARD G. MARTIN' LS 6890
EXP.-DATE-6-30-08

SCHELL AND MARTIN,INC.
LAND SURVEYING AND CIVIL ENGINEERING
3377 MT. DIABLO BOULEVARD
LAFAYETTE, CALIFORNIA 925 283-8111

FOR: DICK HOLT 3129 Woodside Ct
(ATN) Irvine CA 92603-9454

BY HGM/RGA FB 494,530 P 10-46, 19-20 JOB NO. 401-03A
504 60-61

DATE 10/27/2003 SCALE 1"= 60' SHEET 1 OF 1

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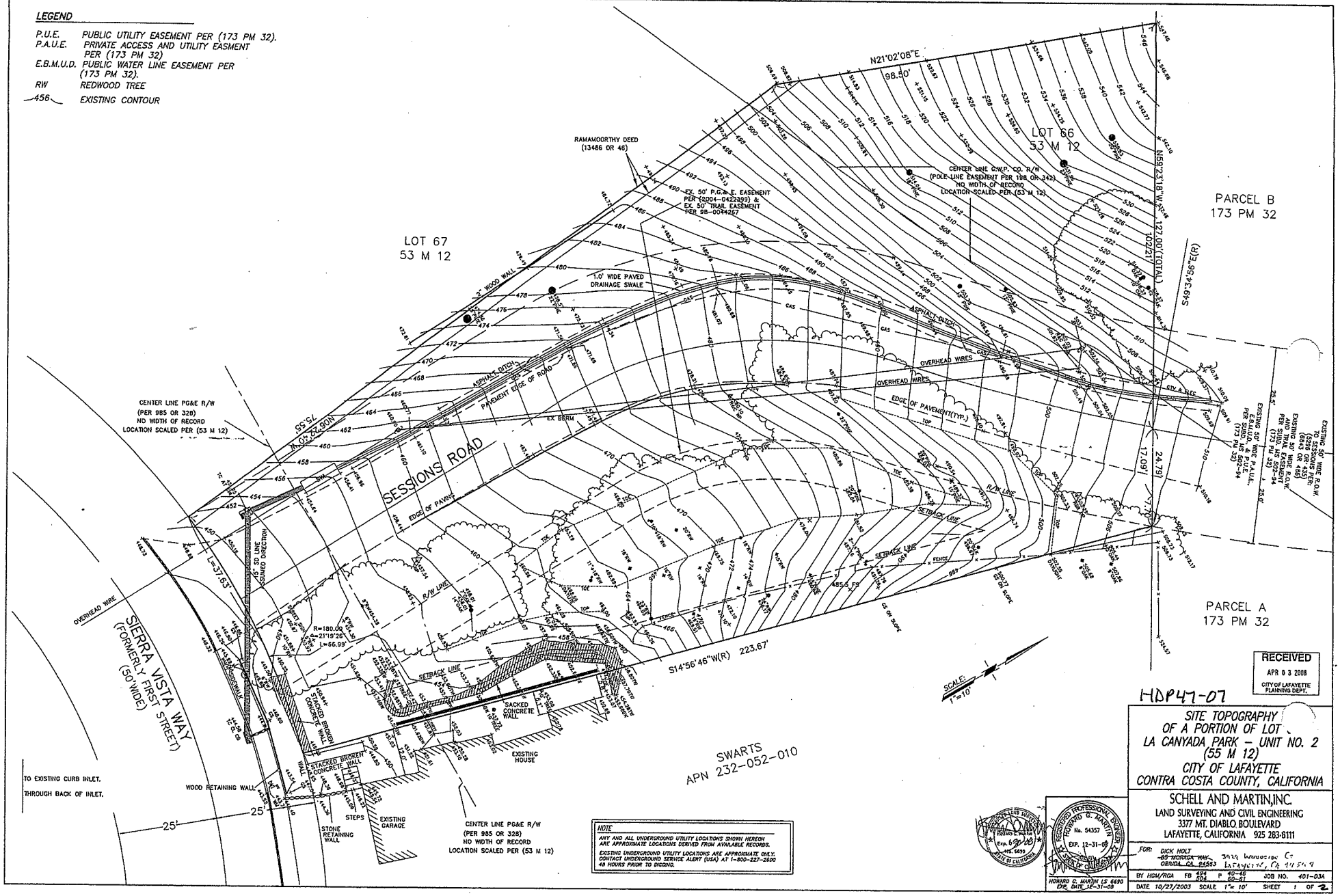
401-03A

ATTACHMENT 3



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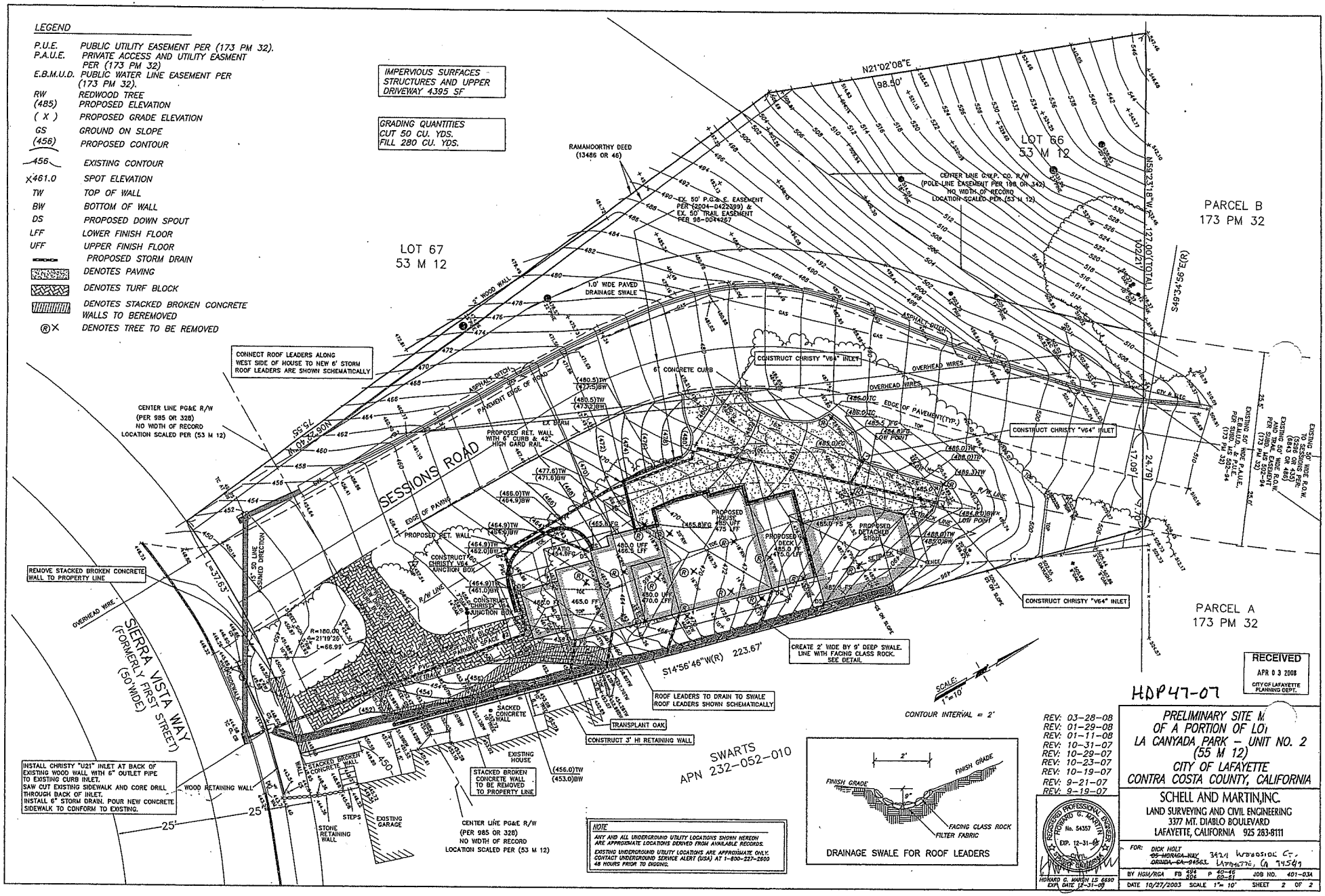

LEGEND
P.U.E. PUBLIC UTILITY EASEMENT PER (173 PM 32).
P.A.U.E. PRIVATE ACCESS AND UTILITY EASMENT PER (173 PM 32)
E.B.M.U.D. PUBLIC WATER LINE EASEMENT PER (173 PM 32).
RW REDWOOD TREE
(485) PROPOSED ELEVATION
(X) PROPOSED GRADE ELEVATION
GS GROUND ON SLOPE
(456) PROPOSED CONTOUR
456 EXISTING CONTOUR
X461.0 SPOT ELEVATION
TW TOP OF WALL
BW BOTTOM OF WALL
DS PROPOSED DOWN SPOUT
LFF LOWER FINISH FLOOR
UFF UPPER FINISH FLOOR
PROPOSED STORM DRAIN
DENOTES PAVING
DENOTES TURF BLOCK
DENOTES STACKED BROKEN CONCRETE WALLS TO BEREMOVED
DENOTES TREE TO BE REMOVED
IMPERVIOUS SURFACES STRUCTURES AND UPPER DRIVEWAY 4395 SF
GRADING QUANTITIES CUT 50 CU. YDS. FILL 280 CU. YDS.
SESSIONS ROAD
SIERRA VISTA WAY (FORMERLY FIRST STREET) (50' WIDE)
LOT 67 53 M 12
LOT 66 53 M 12
PARCEL B 173 PM 32
PARCEL A 173 PM 32
RAMAMOORTHY DEED (13486 OR 46)
CENTER LINE C.W.P. CO. R/W (POLE LINE EASEMENT PER 198 OR 342) NO WIDTH OF RECORD LOCATION SCALED PER (53 M 12)
EX. 50' P.G.&E. EASEMENT PER (2004-0422309) & EX. 50' TRAIL EASEMENT PER 98-0044267
CENTER LINE PG&E R/W (PER 985 OR 328) NO WIDTH OF RECORD LOCATION SCALED PER (53 M 12)
CONNECT ROOF LEADERS ALONG WEST SIDE OF HOUSE TO NEW 6' STORM ROOF LEADERS ARE SHOWN SCHEMATICALLY
CONSTRUCT CHRISTY "V64" INLET
REMOVE STACKED BROKEN CONCRETE WALL TO PROPERTY LINE
INSTALL CHRISTY "U21" INLET AT BACK OF EXISTING WOOD WALL WITH 6" OUTLET PIPE TO EXISTING CURB INLET. SAW CUT EXISTING SIDEWALK AND CORE DRILL THROUGH BACK OF INLET. INSTALL 6" STORM DRAIN. POUR NEW CONCRETE SIDEWALK TO CONFORM TO EXISTING.
CREATE 2' WIDE BY 9' DEEP SWALE. LINE WITH FACING CLASS ROCK. SEE DETAIL
ROOF LEADERS TO DRAIN TO SWALE ROOF LEADERS SHOWN SCHEMATICALLY
TRANSPLANT OAK
CONSTRUCT 3' HI RETAINING WALL
STACKED BROKEN CONCRETE WALL TO BE REMOVED TO PROPERTY LINE
SWARTS APN 232-052-010
PROPOSED HOUSE 485 UFF 475 LFF
PROPOSED DECK 485.0 FF 475.0 LFF
PROPOSED DETACHED SHED
480.0 UFF 466.5 LFF
465.0 FF 470.0 LFF
PROPOSED RET. WALL WITH 6" CURB & 42" HIGH GARD RAIL
PROPOSED RET. WALL
EXISTING HOUSE
EXISTING GARAGE
STONE RETAINING WALL
WOOD RETAINING WALL
STEPS
6" CONCRETE CURB
1.0' WIDE PAVED DRAINAGE SWALE
ASPHALT DITCH
EDGE OF PAVEMENT
OVERHEAD WIRES
N21°02'08"E 98.50'
N59°23'18"W 127.00'(TOTAL)
S49°34'56"E(R)
S14°56'46"W(R) 223.67'
N06°25'40"W 75.55'
L=37.63'
R=180.00' Δ=21°19'26" L=66.99'
102.21'
24.79'
17.09'
SCALE: 1"=10'
CONTOUR INTERVAL = 2'
NOTE
ANY AND ALL UNDERGROUND UTILITY LOCATIONS SHOWN HEREON ARE APPROXIMATE LOCATIONS DERIVED FROM AVAILABLE RECORDS.
EXISTING UNDERGROUND UTILITY LOCATIONS ARE APPROXIMATE ONLY. CONTACT UNDERGROUND SERVICE ALERT (USA) AT 1-800-227-2600 48 HOURS PRIOR TO DIGGING.
2'
FINISH GRADE
9"
FACING CLASS ROCK
FILTER FABRIC
DRAINAGE SWALE FOR ROOF LEADERS

RECEIVED
APR 0 3 2008
CITY OF LAFAYETTE PLANNING DEPT.

HDP47-07

REV: 03-28-08
REV: 01-29-08
REV: 01-11-08
REV: 10-31-07
REV: 10-29-07
REV: 10-23-07
REV: 10-19-07
REV: 9-21-07
REV: 9-19-07

PRELIMINARY SITE M
OF A PORTION OF LO
LA CANYADA PARK – UNIT NO. 2
(55 M 12)
CITY OF LAFAYETTE
CONTRA COSTA COUNTY, CALIFORNIA

SCHELL AND MARTIN, INC.
LAND SURVEYING AND CIVIL ENGINEERING
3377 MT. DIABLO BOULEVARD
LAFAYETTE, CALIFORNIA 925 283-8111

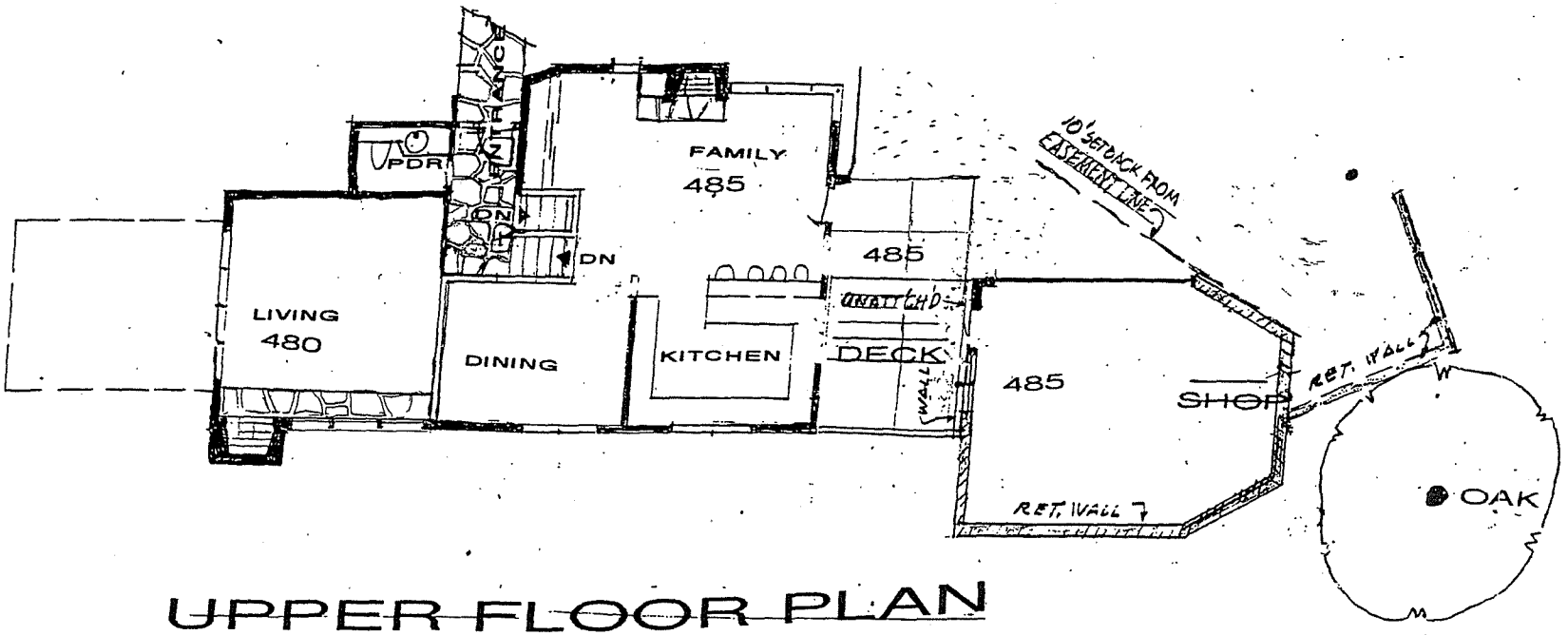
FOR: DICK HOLT
~~85 MORAGA WAY~~ 3424 WOODSIDE CT.
~~ORINDA, CA. 94563~~ LAFAYETTE, CA 94549

REGISTERED PROFESSIONAL ENGINEER HOWARD G. MARTIN No. 54357 EXP. 12-31-09 CIVIL STATE OF CALIFORNIA
HOWARD G. MARTIN LS 6690 EXP. DATE 12-31-09

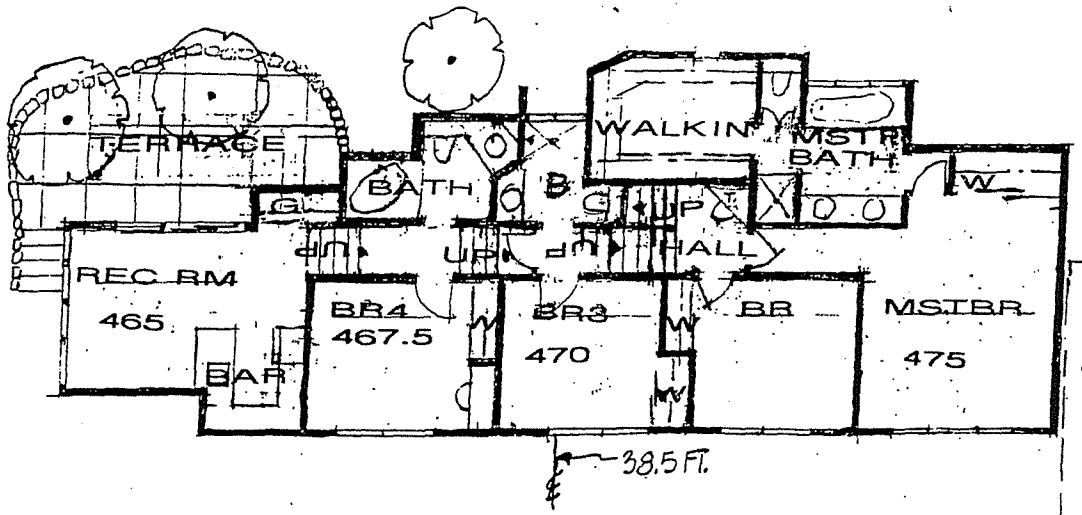
BY HGM/RGA FB 282 P 40-46 60-61 JOB NO. 401-034
DATE 10/27/2003 SCALE 1"= 10' SHEET 2 OF 2

C:\W_DRIVE\PROJECTS\J0302001\401-034\MOLT SITE PLAN 3 23 08.dwg Fri Mar 28 16:41:40 2008

RECEIVED
APR 0 3 2008
CITY OF LAFAYETTE
PLANNING DEPT.



UPPER FLOOR PLAN



SHOP OVER

3'

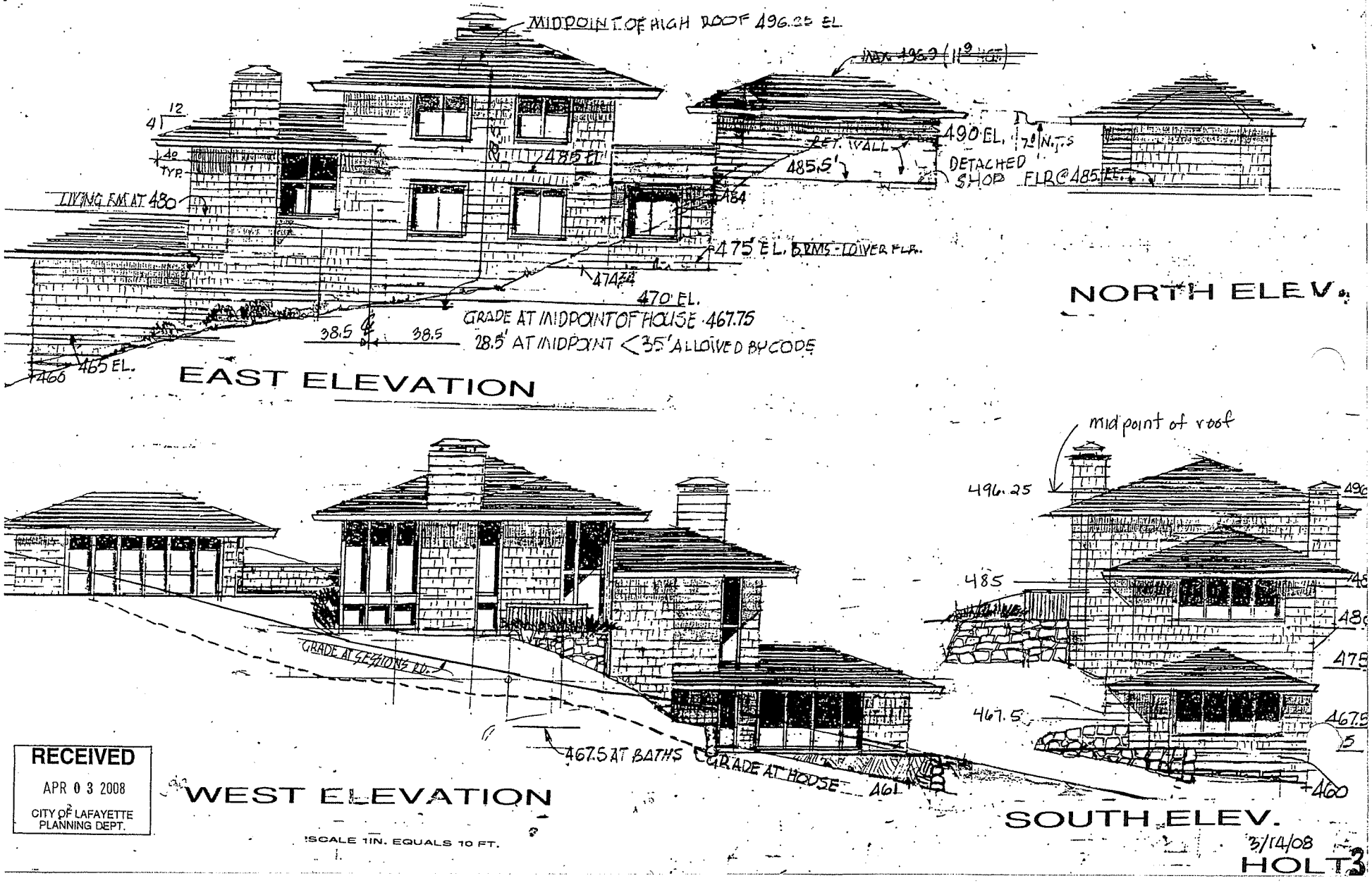
SCALE 1"=10'

AREA CALCULATIONS

UPPER FLOOR	1289
LOWER FLOOR	1753
SHOP	465
TOTAL	3507
HOUSE	3042

LOWER FLOOR PLAN

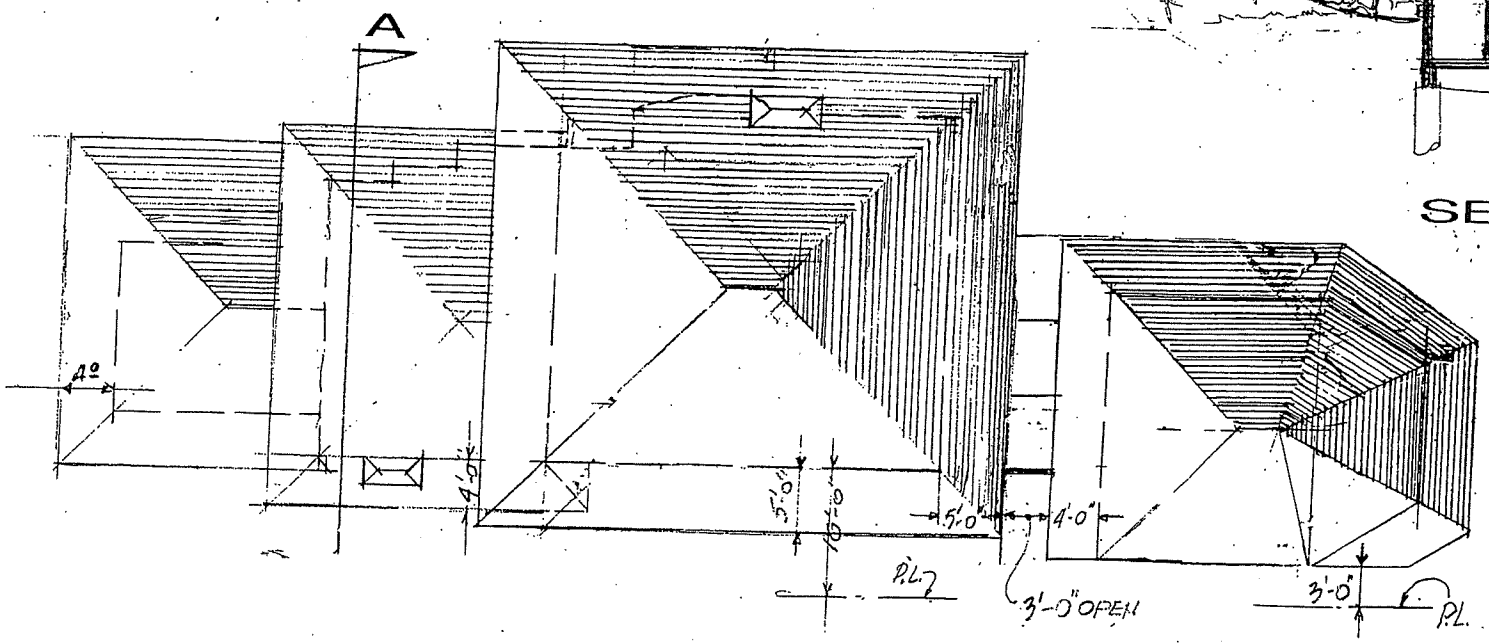
HOLT 2 3/14/08 2

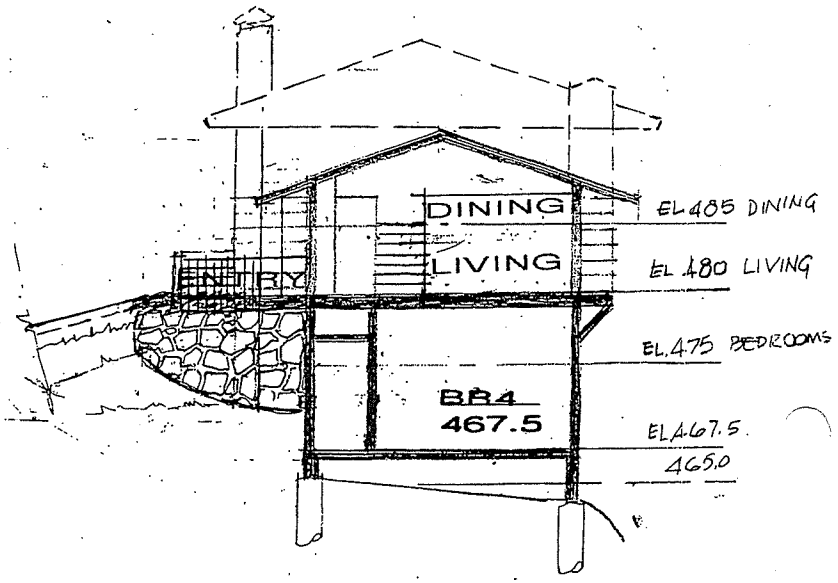


RECEIVED
APR 0 3 2008
CITY OF LAFAYETTE
PLANNING DEPT.

3/14/08

HOLT 3





SECTION A

RECEIVED
APR 0 3 2008
CITY OF LAFAYETTE
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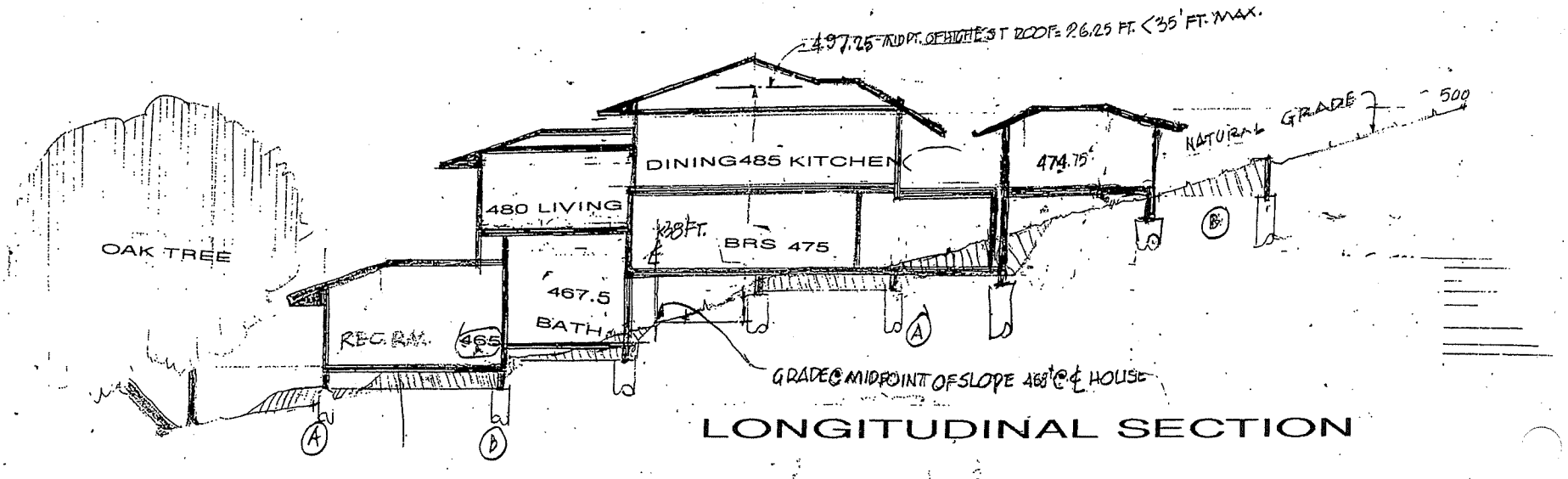
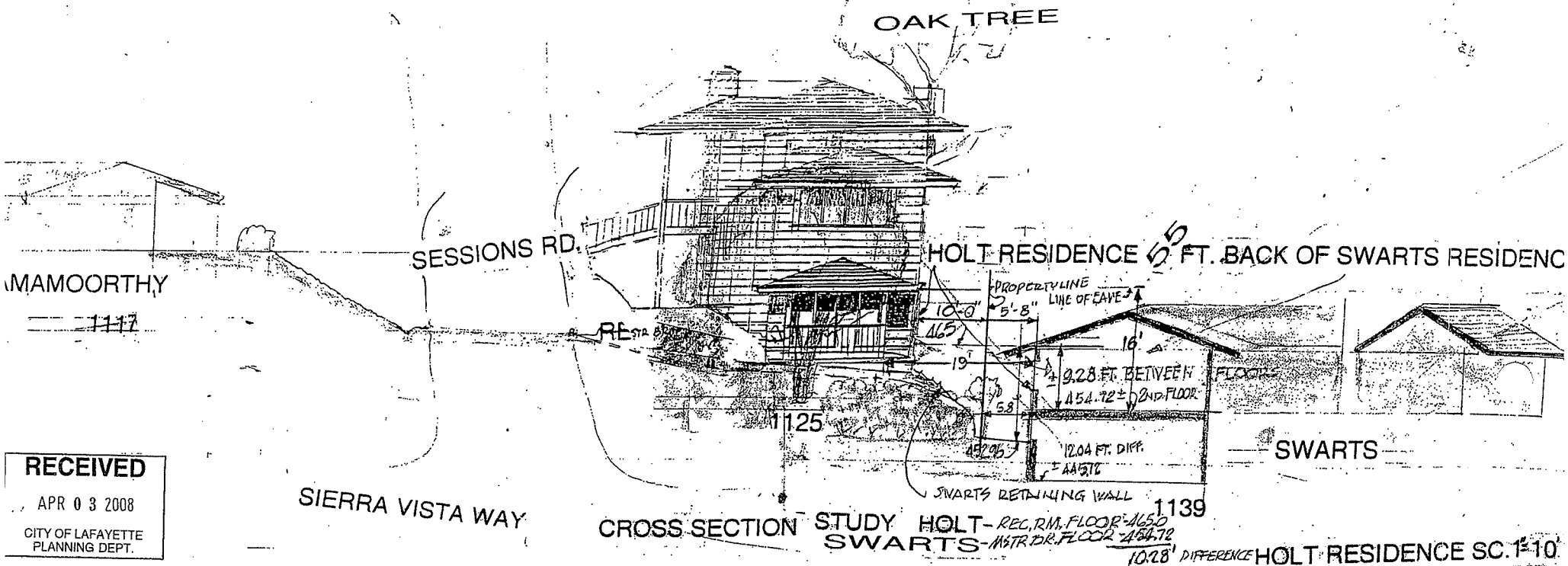
ROOF PLAN SC. 1 IN. 10 FT.

HOLT RESIDENCE

3/12/08



LONGITUDINAL SECTION



CROSS SECTION STUDY HOLT- REC. RM. FLOOR 465.0
SWARTS- MSTR. DR. FLOOR 454.72
10.28' DIFFERENCE

HOLT RESIDENCE SC. 1" = 10'

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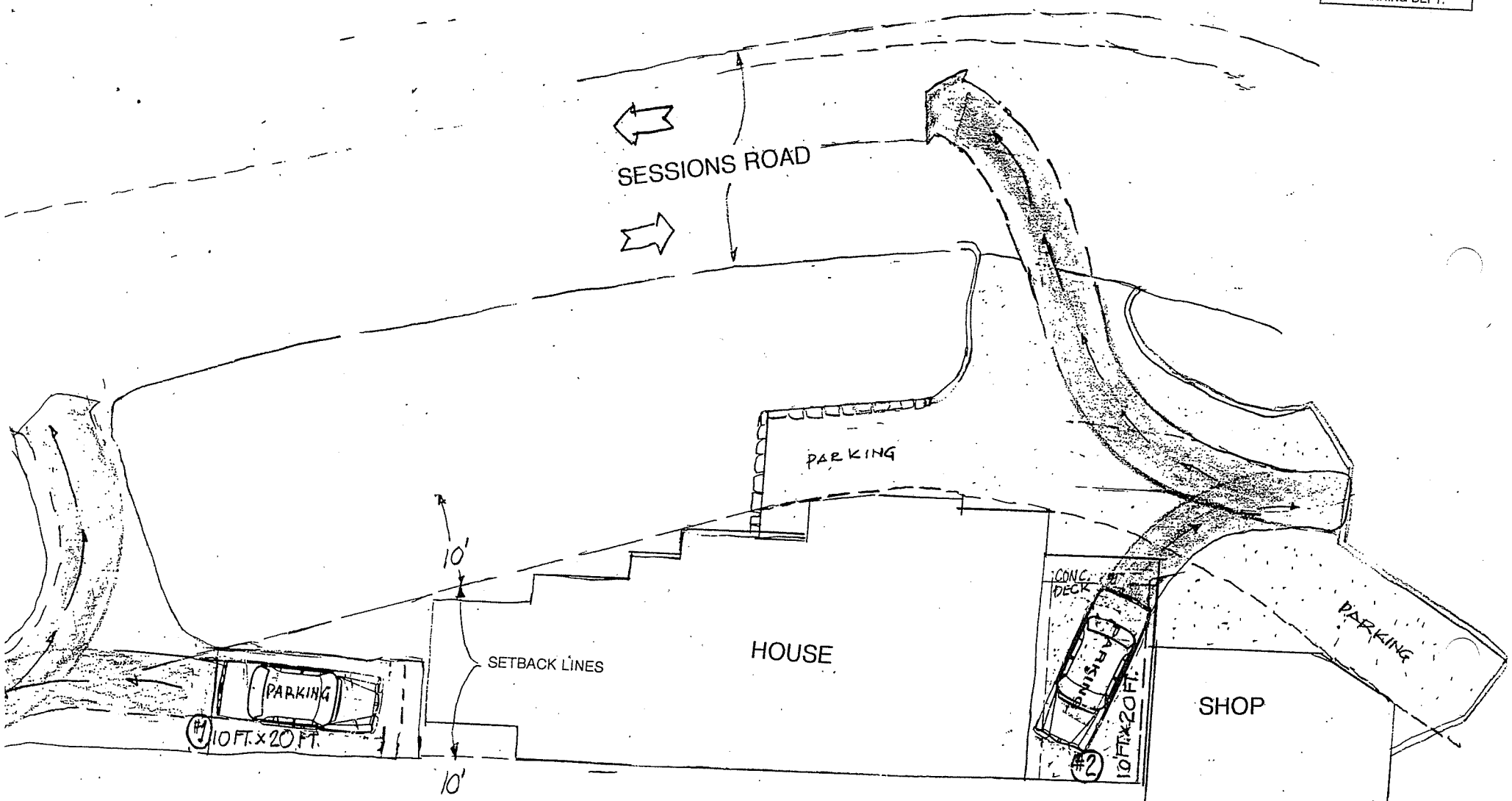
CITY OF LAFAYETTE
PLANNING DEPT.

RECEIVED
APR 0 3 2008
CITY OF LAFAYETTE
PLANNING DEPT.

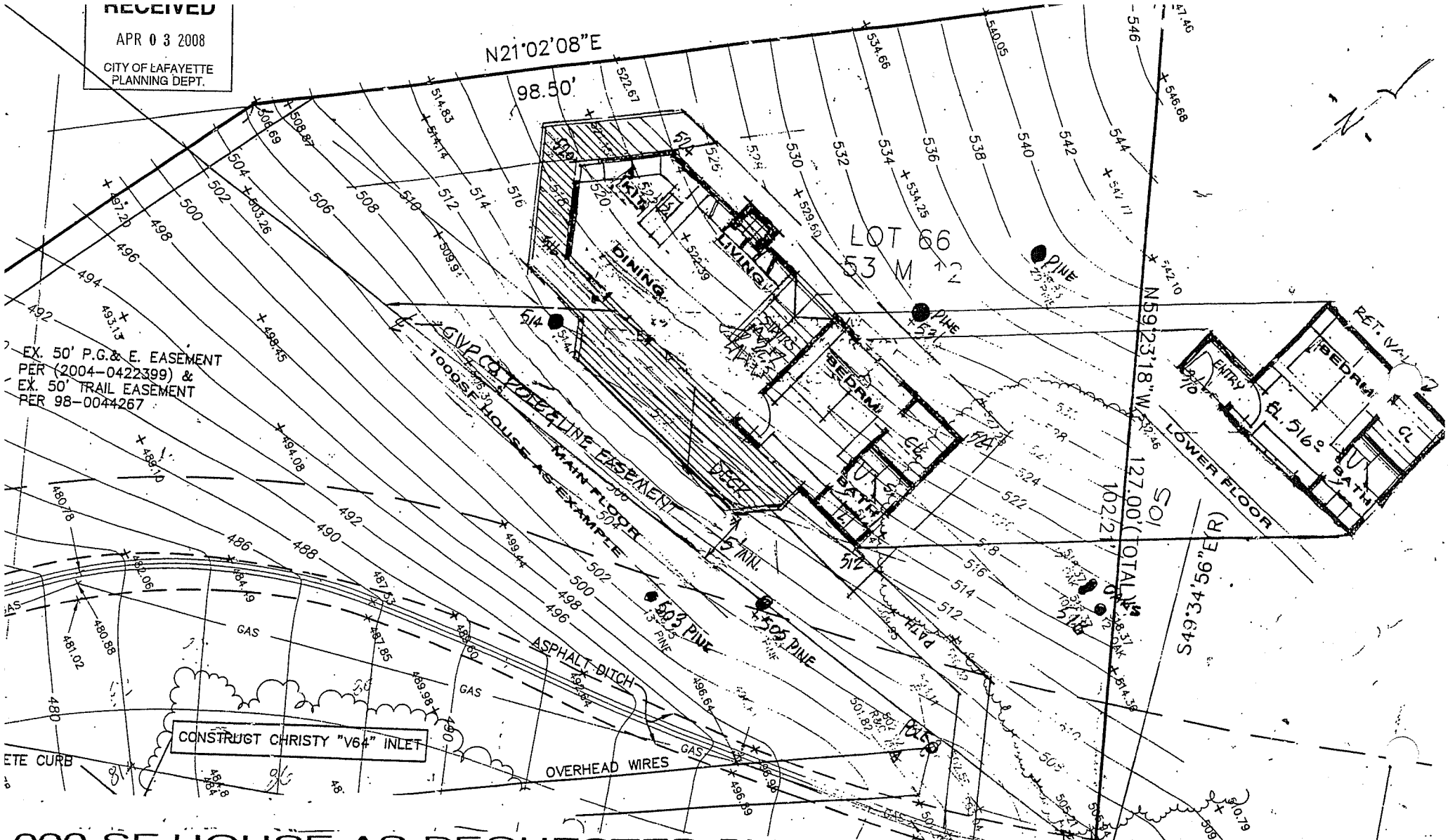


TWO PARKING SPACES REQUIRED 10 FT.BY 20 FT.

Scale 1" = 10'

HOLT

RECEIVED
APR 03 2008
CITY OF LAFAYETTE
PLANNING DEPT.



000 SF HOUSE AS REQUESTED BY PLANNING COMMISSION

ONWEST SIDE OF SESSIONS

HOLT 7

PAGE NO. 1

PREPARED BY CDD JV

DATE 1/11/08

MEMORANDUM

TO: CHRISTINE SINNETTE

FROM: C.E. DELEUW JR., TRAFFIC ENGINEER

SUBJECT: HDP47-07 RICHARD W. HOLT REQUEST FOR HILLSIDE DEVELOPMENT PERMIT SESSIONS ROAD AT SIERRA VISTA WAY

AS REQUESTED I HAVE REVIEWED THE PRELIMINARY SITE MAP PREPARED BY SCHELL AND MARTIN, INC REVISED 10-31-07 THE MAP SHOWS DEVELOPMENT CONCEPTS FOR SITE A (EAST SIDE OF SESSIONS) AND SITE B (WEST SIDE OF SESSIONS). AFTER VISITING THE SITE I HAVE THE FOLLOWING PRELIMINARY COMMENTS REGARDING TRAFFIC ISSUES:

SITE A

1. MAXIMIZE SIGHT DISTANCE FOR DRIVERS EXITING THE DRIVEWAY BY PROHIBITTING RESTRICTIVE LANDSCAPING AND BUILDING CORNERS AS WELL AS PARKING ON THE EAST SIDE OF SESSIONS ROAD. THIS IS PARTICULARLY IMPORTANT DOWNHILL FROM THE DRIVEWAY

2. CONSIDER A GARAGE/DRIVEWAY DESIGN THAT ALLOWS DRIVERS TO TURN AROUND AND EXIT THE DRIVEWAY FRONTWARDS. THIS WOULD IMPROVE SIGHT DISTANCES SOMEWHAT AS WELL AS FACILITATE TURNS ON TO SESSIONS ROAD

3. CLARIFY HOW MANY ON-SITE PARKING SPACES WOULD BE AVAILABLE TO SERVE VISITORS

ATTACHMENT 5

SITE B

4. DESIGN THE DRIVEWAY GRADIENT TO PREVENT VEHICLES FROM BOTTOMING OUT WHERE THE DRIVEWAY INTERSECTS SESSIONS ROAD.

5. CONSIDER A GARAGE DESIGN THAT ALLOWS TWO CARS TO ACCESS THE GARAGE INDEPENDENTLY.

6. ENLARGE THE TURN AROUND AREA TO MORE EFFICIENTLY FACILITATE TURN AROUND MANUEVERS.

GENERAL COMMENTS

7. CONSIDER REPAVING SESSION ROADS ADJACENT TO THE PROPERTY SINCE IS SIGNIFICANTLY CRACKED.

8. REDO SESSIONS ROAD CENTERLINE STRIPING ADJACENT TO THE PROPERTY WITH RAISED PAVEMENT MARKERS AS IS NOW DONE TO DEFINE TRAVELWAY AROUND THE CURVE AND APPROACHING SIERRA VISTA.

9. INSTALL A STOP SIGN AND LIMIT LINE FACING DOWNHILL DRIVERS ON SESSIONS ROAD AT SIERRA VISTA. CURRENTLY THESE ARE MISSING EVEN THOUGH THERE IS A "STOP AHEAD" SIGN FACING DOWNHILL DRIVERS ABOUT 150' NORTH OF THE INTERSECTION.

10. PRUNE OR REMOVE OLEANDER BUSH ON NW CORNER OF SESSIONS / SIERRA VISTA TO IMPROVE SIGHT DISTANCE ALONG SIERRA VISTA TO THE WEST AS WELL AS THE ADJACENT RESIDENTIAL DRIVEWAY.

11. IMPROVE THE VISABILITY OF THE SESSION ROAD STREET NAMES SIGN BY ADDING ANOTHER SIGN OR REPOSITIONING THE EXISTING ONE SO IT CAN BE SEEN BY DRIVERS APPROACHING

HDP 47-07 CONTINUED

PREPARED BY: CBS
DATE: 1/11/08

ACTION NOTES	DISCUSSION

GENERAL COMMENTS (CONTINUED)

12. CONSIDER ADDING AN ADVANCED "TEE" INTERSECTION SIGN ALONG SIERRA VISTA FACING NB DRIVERS ENTERING THE CURVE.

13. REPLACE THE WORN ADVANCE "TEE" INTERSECTION WARNING SIGN FACING SIERRA VISTA DRIVERS APPROACHING SESSIONS ROAD FROM THE EAST.

14. ULTIMATELY, IF CONSTRUCTION DOES OCCUR ON SITE A OR SITE B, A DETAILED CONSTRUCTION TRAFFIC MANAGEMENT PLAN WOULD NEED TO BE PREPARED AND APPROVED TO MINIMIZE CONSTRUCTION IMPACTS.

Contra Costa County Fire Protection District

Fire Chief
KEITH RICHTER

January 4, 2008

RECEIVED

JAN 0 9 2008

CITY OF LAFAYETTE
PLANNING DEPT.

Ms. Christine Sinnette
City of Lafayette
Planning Services Division
3675 Mt. Diablo Blvd., Suite 210
Lafayette, CA 94549

Subject: HDP47-07; Holt Residence
Sessions Road, Lafayette
APN: 232-052-019
CCCFPD Project No.: 109579-PL

Dear Ms. Sinnette:

We have reviewed the **revised** development plan application to construct a 3,615 square foot, two-story single-family residence at the subject location. Two proposed locations are being provided for the new home. This project is governed by codes, regulations, and ordinances administered by this Fire District and the State Fire Marshal's Office. **If this project is approved by your office, the following shall be included as part of the conditions of approval in accordance with the Health and Safety Code, the 2001 California Fire Code (CFC), 2001 California Building Code (CBC), and other applicable regulations (i.e., Public Resource Code (PRC), Local and County Ordinances, and Community General Plans, etc.):**

1. The developer shall provide one hydrant of the East Bay type. ***Hydrant location will be determined by this office.*** (903.4.2) CFC

2. The roadway surface transition from Sierra Vista Way to Sessions Road shall provide for a grade difference of no greater than ten% within the first ten feet of a grade break. (902.2.2.6) CFC

3. The developer shall submit three copies of site improvement plans indicating all existing or proposed utilities and fire apparatus access roadways for review and approval prior to construction. (902.2.2.1) CFC

   Note: This submittal shall be used to locate the above-required hydrant.

4. ***Hydrant shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site.*** (8704.1) CFC

5. The developer shall provide an adequate and reliable water supply for fire protection with a minimum fire flow of 1750 GPM. Required flow shall be delivered from not more than one hydrant flowing for a duration of 120 minutes while maintaining 20-pounds residual pressure in the main. (903.3) CFC

6. Premises identification shall be provided. Such numbers shall contrast with their background and be a minimum of four inches high with ½-inch stroke or larger as required to be readily visible from the street. (901.4.4) CFC

7. The homeowner shall maintain an effective firebreak by removing and clearing away flammable vegetation and combustible growth from areas within 30 feet of buildings or structures. (Appendix II-A, Section 16.1) CFC

8. Submit plans to: Contra Costa County Fire Protection District
2010 Geary Road
Pleasant Hill, CA 94523

9. To schedule field inspections and tests call **925.941.3323** ***prior to*** 3 p.m. a minimum of two working days in advance.

The above-referenced CCCFPD Project Number shall be required in all correspondence or communication with the Fire District.

Our preliminary review comments shall not be construed to encompass the complete project. Additional plans and specifications may be required after further review.

Projects beginning construction more than one year from approval may be subject to additional requirements.

Submit to the Fire District a copy of the conditions of approval as set forth on the subject project.

If you have any questions regarding this matter, please contact this office at 925.941.3300.

Sincerely,

Ted Leach
Fire Prevention Technician

TL/mm

c: Richard Holt
3929 Woodside Court
Lafayette, CA 94549

Schell and Martin
3377 Mt. Diablo Boulevard
Lafayette, CA 94549

Sinnette, Christine

From: Jeff Swarts [swartsco@yahoo.com]
Sent: Monday, May 26, 2008 5:42 PM
To: Sinnette, Christine; Planning Commission
Subject: HDP47-07 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING

May 26, 2008

TO: Lafayette Planning Commission
Christine Sinnette/Senior Planner, Lafayette Planning Dept.

RE: HDP47-07 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING

Please include this letter in the Commission's packet for the Public Hearing, June 5, 2008.

As you are well aware I have many reservations as to the build-ability of this road easement/ lot. Since Mr. Holt's withdrawn application was first submitted a year ago, neither the Planning Dept. nor the Planning Commission have answered my questions. I will list them again with additional questions regarding the new plans. Please respond using the corresponding item #s.

1.Several of us have requested a traffic study of this intersection. You stated in your letter to me last year that it is up to the commission to request a study not the Planning Dept.
a. Have they requested a study as of yet? As you know, our concerns center around the steep grade and the narrow width of the road. We contend the road should be widened and an S curve added to lessen the grade to allow for a fire truck and emergency vehicles to ascend. Without these additions, a serious accident is likely to occur when someone is backing out of the proposed driveway while someone is coming down the hill. Refer to my June 27, 2007 email to you; item #11.
b. Why don't Mr. Holt's plans consider the driveway entrance from Sierra Vista Way instead?

2. What have you worked out between the residences up the hill and Mr. Holt who differ on the lot's original and intended purpose? As you will recall, the lot in question was designated as a formal entrance to their subdivision with an easement over its entirety, thus the reason why Mr. Holt paid well below market rate for the lot. The Planning Dept. still hasn't made it clear why and how the lot went from a dedicated easement to the uphill subdivision, and unbuildbale, to now being deemed a buildable lot. Please clarify the Planning Dept's. process and position.

3. Has Mr. Holt referenced the new 1994 map on his new application or is he still using the 1966 parcel map with all its inconsistencies? Refer June 27, 2007 email; item #14.

4. Has Mr. Holt applied for or been granted a variance to construct his proposed detached shop within the 10' property line setback rule? The plans show his shop within 2-3 feet of my property line.

5. Is the 25' road easement determined from the center of the road?

6. Is his structure still set-back an additional 10' from this right-away?

ATTACHMENT 7

7. Are there stakes in the field where we can verify his map distances?

8. Does Mr. Holt still have second story decks protruding well into the 10' property line set-back area?

9. Mr. Holt's new plans indicate construction of a 10' tall retaining wall just 15' 8" from my master bedroom window with a two story structure and roof above that.
   a. What will this giant concrete wall look like?
   b. Is Mr. Holt required to specify the detailed design of this wall? The proposed wall will block all afternoon sun in my backyard.
   c. Can Mr. Holt lower his home and set it more into the hillside?

10. There is an incredible amount of water that comes down through Mr. Holts lot during the wet season.
   a. Has Mr. Holt submitted an adequate drainage plan?
   b. What plans does the city require to mitigate damages to my property as a result of his water/drainage systems?

11. Where has the hiking trail and its parking area been relocated to?

12. a. How many square feet is the new home /shop?
   b. Is it consistent with us neighbors of 1200-1800 square foot homes in the Sierra Vista subdivision?

13. How many trees does Mr. Holt plan to remove, and how many redwoods will remain?

ALL of these questions merit addressing before any decision by the Commission in regards to this project.

Please confirm receipt of this letter via e-mail: swartsco@yahoo.com
Please respond to my questions prior to the hearing date of June 5.
If the Planning Dept. is unable to answer a particular question, I submit them to the Commission for clarification.

Regards,
Jeff Swarts

Sinnette, Christine

From: Carol Hehmeyer [carolhehmeyer@yahoo.com]
Sent: Tuesday, May 27, 2008 2:47 PM
To: Sinnette, Christine
Cc: Raji Watawala; 'Lakshman Watawala'; Jeff Swarts; Bruce Whitten; SueClyde Pitchford; allan houlberg; ArleneKen Sargent; Dan Studeman; CW Chung; JeffCarrie Fenton; Neil DeCrescenzo; Valery Uhl
Subject: Fwd: Fw: HDP47-07 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING

Dear Ms. Sinnette: I will be coming down to the Planning Commission this Friday to see the alleged 1994 map on which Mr. Holt is apparently relying, to say that the easement over the entire lot does not exist any longer.

However, I doubt that such a map exists because easements which are recorded and deeded and granted to 22 different property owners up Sessions Road (and in Northridge) cannot be "erased" in any way unless each property owner consents with a recorded instrument to that effect.

I have recommended that each of the property owners submit this case to their Title Companies. Each of them is entitled to a full defense of their insured title, for free!

This is really an outrage and a huge scandal.

Yours,
Carol M. Hehmeyer

Jeff Swarts <swartsco@yahoo.com> wrote:

> Date: Mon, 26 May 2008 17:45:55 -0700 (PDT)
> From: Jeff Swarts <swartsco@yahoo.com>
> Subject: Fw: HDP47-07 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING
> To: Lakshman Watawala <watawala@pacbell.net>
> CC: carol hehmeyer <carolhehmeyer@yahoo.com>
>
> ----- Forwarded Message ----
> From: Jeff Swarts <swartsco@yahoo.com>
> To: csinnette@ci.lafayette.ca.us; planningcommission@lovelafayette.org
> Sent: Monday, May 26, 2008 5:41:57 PM
> Subject: HDP47-07 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING
>
> May 26, 2008
>
> TO: Lafayette Planning Commission

Christine Sinnette/Senior Planner, Lafayette Planning Dept.

RE: HDP47-07 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING

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If the Planning Dept. is unable to answer a particular question, I submit them to the Commission for clarification.

Regards,
Jeff Swarts

HEHMEYER
1966 Tice Valley Blvd., #507
Walnut Creek, CA 94595
925-969-1744
carolhehmeyer@yahoo.com

RECEIVED
MAY 2 8 2008
CITY OF LAFAYETTE
PLANNING DEPT.

May 27, 2008

Lafayette Planning Commission
Lafayette City Planning Services Division
3675 Mt. Diablo Blvd., -- Suite 210
Lafayette, CA 94549

Re: HDP47-07 RICHARD HOLT (APPLICANT), R-10 ZONING

Dear Commissioners:

I have received no notice of it, but my neighbors advise me that yet another application from LaMorinda Properties, LLC. for the construction of a home on Lot 66 at the foot of Sessions Road, is being considered by this Commission.

I do not understand this. !!! One neighbor advises me that Mr. Holt has "found a 1994 survey" which shows that there is no easement over Lot 66. That is not legally possible.

On about July 11, 2007, in the prior Application proceedings, I filed a Condition of Title Report for Lot 66. This report was prepared by Chicago Title after, long after, 1994. If any survey existed which had the legal significance reportedly being asserted by Mr. Holt, it would have been addressed in that report by Chicago Title.

When I filed that prior report, which is part of your records on this property, I explained what such a Report is, and stated that this report shows five (5) original (or direct) grants of easement over the entire lot from the then owners of Lot 66.

In addition to all of the grants to owners on Sessions, there are Original grants to Northridge property owners.

Northridge was apparently developed when Ambassador Sessions owned Lot 66. In that year he granted each Northridge lot owner a full right of access over the entirety of Lot 66.

You can see this grant in Parcel Ten of the deed filed for Lawrence Sklarski at 11 Northridge Lane. (previously submitted and a full part of your records) The relevant portion of Parcel Ten reads as follows:

"A right of way (not to be exclusive), as an appurtenance to parcels one, two, and three, above, reserved in the deed from Edson O. Sessions. Et ux. Recorded January 16, 1973, Book 6843, page 486, official records, for use as a roadway for vehicles of all kinds, pedestrians and animals, for water, gas, oil and sewer pipe lines, and for telephone, electric light and power lines, together with the necessary poles or conduits to carry said lines, over, under, and upon all of Lot 66."

The rest of Parcel ten provides an easement over Sessions Road, which is to the north of Lot 66.

This grant should clarify the nature of the easement over the entirety of Lot 66. It is clear and unequivocal in this original grant from Sessions to 13 neighbors. No house can be built on Lot 66.

As I stated above, I previously filed a copy of the Grant Deed to Mr. Sklarski. The easement of access over the entirety of Lot 66, as I state above, appears in section (G.) of the Condition of Title Report filed yesterday.

Of course the Northridge owners also have the easement over the entire Lot 66 which is derived from the Sessions indenture'

All of these easements of access are interests in real property. The Planning Commission cannot ignore them or impair them. To do so would constitute a taking of property without due process, since you are not a court of law.

The recent Application was filed without even provision of notice to the easement owners over lot 66. That failure to notify is illegal.

The consideration of an application to build a house on the lot is illegal.

I have moved from Sessions Road, but feel a duty to the purchaser of my home on Sessions, and to my former neighbors, to continue to speak out on this gross and stupefying injustice.

I have advised my former neighbors to send a copy of the Application to their title companies and demand a defense of title from them. Each insurance company provided title insurance as to the easements of access over the entirety of Lot 66. They are required by law to defend against a threat to that title upon demand for defense.

Please have Planning Staff consult with a reputable title company to learn something about deeds, easements appurtenant, and the definition of "county records." A recorded deed is a county record, although, during the past proceeding one of your staffers denied that fact !!!!

Yours very truly,

Carol M. Hehmeyer

Ken and Arlene Sargent
15 Sessions Road
Lafayette, CA 94549

May 27, 2008

City of Lafayette
Planning Services Division
3625 Mt. Diablo Blvd, Suite 210
Lafayette, CA 94549-1968

Reference: HDP47-07 Richard Holt (Applicant and Owner)

Dear Commissioners,

We are the owners of the property at 15 Sessions Road in Lafayette and were extremely disappointed to learn that all of the materials provided to you last year on the Holt request for a building permit on Lot 66 did not stop Mr. Holt from requesting another permit to build on that lot. We are writing to you at this time to let you know that we are strongly opposed to a building on this site and believe it is in violation of our title agreement.

Our property deed clearly indicates that Lot 66 is part of the access easement for Sessions Road. We purchased our lot in 1983 from Mr. Petar Jakovina and at that time it was clear that the original developers of our community considered this strip of land expressly for the purpose of providing entrance to the estate and set aside its entirety as an esthetically pleasing entrance to the larger estate beyond. Our title clearly indicates that Lot 66 is a 50 feet wide strip of land providing non-exclusive easement for ingress and egress.

It is clear that because of the existence of the easements over the entirety of Lot 66 the Planning Commission must deny this application.

Thank you for your consideration of this request.

Sincerely,

Ken Sargent

Arlene Sargent

RECEIVED
MAY 2 8 2008
CITY OF LAFAYETTE
PLANNING DEPT.

Lakshman Watawala
7 Sessions Road
Lafayette, CA 94549

RECEIVED
MAY 2 9 2008
CITY OF LAFAYETTE

May 29, 2008

City of Lafayette
Planning Services Division
3625 Mt. Diablo Blvd, Suite 210
Lafayette, CA 94549-1968

Reference: HDP47-07 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING

Dear Commissioners:

I own the property at 7 Sessions Road in Lafayette, located adjacent to Lot 66 on the north-west side. I am writing to strongly oppose the application to build a two-story house on Lot 66 based on the following:

1. The entirety of Lot 66 is an access easement for the properties that lie up-hill on Sessions Road.

   The recorded deed of my property and those of others on Sessions Road describe the entire Lot 66 as an access easement to our properties. The description of the easement specifically identify entire Lot 66, distinctly separate from the remaining 50 ft wide roadway that begins at the northeast line of Lot 66 and traverses away from Lot 66.

   The original owners and the developers of properties on Sessions Road set aside Lot 66 as a formal, natural, scenic entrance to the large estate that lie beyond. It is very clear that they acquired this lot from the Sierra Vista subdivision and encumbered it with an easement to provide the formal entrance to our properties. The easement is not for mere access; it is for a formal entry to the estate in a very natural setting. It should be noted that compared to the 4+ acre properties up on Sessions Road, Lot 66 is about a 1/4 acre sliver of land.

   Although the plans provided by the applicant shows a "centerline" of Sessions Road over Lot 66, there is no legal document that describes such a centerline. If the applicant is to make the assertion that the easement is only 50 ft wide over Lot 66, then it is their burden to produce legal documents to establish that.

   It is my understanding that Mr. Holt was the real estate broker for Mr. Petar Jockowina who sold the property to the developer who built my house. So, I have to believe that being a knowledgeable real estate broker, Mr. Holt must have known about the easement over Lot 66 before he subsequently bought it. In fact the very low price Mr. Holt reportedly paid for the lot was due to the fact that it is an easement

burdened lot. Mr. Holt bought this lot knowing full well that it is encumbered by an easement and now trying to build a house on it at the expense of the 22 tax paying property owners whose property values will be affected by a desecrated formal entrance to their estates.

2. Building a two-story house with a drive-way on to a very steep, blind roadway will create extremely dangerous traffic conditions.

   The primary access to our homes runs through Lot 66 over a very steep grade running in to a blind intersection on to Sierra Vista way at the south edge of Lot 66. Building a house with a driveway exiting to Sessions road on this already dangerous segment of the road will make this situation even worse. Furthermore, a tall structure on Lot 66 will reduce visibility of on-coming traffic on both directions.

Thank you.

Sincerely

L Watawala

Lakshman Watawala

BAEFSKY & ASSOCIATES
ENVIRONMENTAL LANDSCAPE CONSULTING

April 1, 2008

Mr. Dick Holt
C/o Caldwell Banker
85 Moraga Way
Orinda, CA 94563

RECEIVED
APR 0 3 2008
CITY OF LAFAYETTE
PLANNING DEPT.

Job Site: Lot 66 Sierra Vista Way, Lafayette CA

Subject: Updated Arborist Report

Dear Mr. Holt,

The following memo is an update to the Baefsky & Associates Arborist Report, dated July 6, 2007. This update includes revisions to Appendix B (Construction Impacts) and Appendix C (Recommendations) of the report, as well as changes to details contained in the report related to impacts on specific trees from proposed construction, as well as recommendations to remove or preserve, and preservation details.

I am providing this memo due to a City of Lafayette request for an updated Arborist Report, based on the current house plan and driveway. In preparing this memo, analysis of probable construction impacts to trees relied on the Schell and Martin, Inc. Preliminary Site Map, revised March 28, 2008.

Revised Summary of Impacts to Trees

IMPACT	NUMBER OF TREES	TOTAL PERCENT OF POPULATION EVALUATED
Reduced Vigor, Increased Failure Potential	3	10%
Reduced Vigor	1	3%
No Visible Impacts	5	16%
Loss	22	71%

Revised Recommendations

- Remove twenty trees that are likely to fail due to site work, and two trees due to their existing (very poor) condition ratings
- Preserve nine trees

P.O. Box 311, Orinda, CA 94563 baefsky-associates@sbcglobal.net – email 925.254.795[illegible] Phone

APPENDIX B – CONSTRUCTION IMPACTS

#	COMMON NAME	DIAMETER (inches)	CONDITION	CLOSEST ITEM	DISTANCE FROM TRUNK (feet)	IMPACT
1	COAST REDWOOD	13.1	GOOD	DRIVEWAY	0	LOSS
2	COAST REDWOOD	3.8	FAIR	DRIVEWAY	0	LOSS
3	COAST REDWOOD	9.2	POOR-FAIR	DRIVEWAY	5.5	REDUCED VIGOR, INCREASED FAILURE POTENTIAL
4	COAST REDWOOD	13.1	FAIR	DRIVEWAY	0	LOSS
5	COAST LIVE OAK	22.3	FAIR	RETAINING WALL	2.5	REDUCED VIGOR, INCREASED FAILURE POTENTIAL
6	VALLEY OAK	26.1	POOR	STORM DRAIN INLET	12	REDUCED VIGOR, INCREASED FAILURE POTENTIAL
7	CA PEPPERTREE	20.7	VERY POOR-POOR	DRIVEWAY	0	LOSS
8	COAST REDWOOD	8.8	FAIR	STORM DRAIN	5	REDUCED VIGOR
9	COAST REDWOOD	21.7, 12.7	POOR-FAIR	HOUSE	0	LOSS
10	COAST REDWOOD	21.0	FAIR	HOUSE	0	LOSS
11	COAST REDWOOD	24.8	FAIR	HOUSE	0	LOSS
12	COAST REDWOOD	18.0	FAIR	HOUSE	0	LOSS
13	COAST REDWOOD	22.9. 11.8	FAIR	HOUSE	0	LOSS
14	COAST REDWOOD	22.3	FAIR-GOOD	HOUSE	0	LOSS
15	COAST REDWOOD	18.8	FAIR	HOUSE	0	LOSS
16	COAST REDWOOD	25.5	FAIR-GOOD	HOUSE	2	LOSS

#	COMMON NAME	DIAMETER (inches)	CONDITION	CLOSEST ITEM	DISTANCE FROM TRUNK (feet)	IMPACT
17	COAST REDWOOD	6.1, 13.7	POOR	HOUSE	0	LOSS
18	COAST REDWOOD	19.1, 10.8	POOR-FAIR	HOUSE	0	LOSS
19	COAST REDWOOD	17.8	POOR	HOUSE	0	LOSS
20	COAST REDWOOD	29.9	FAIR	HOUSE	2	LOSS
21	Canary island pine	15.6	POOR	HOUSE	0	LOSS
22	Canary island pine	18.2, 16.9	POOR	HOUSE	1	LOSS
23	Canary island pine	23.9	POOR	PARKING	1	LOSS
24	Canary island pine	28.5	POOR	DRIVEWAY	0	LOSS
25	Canary island pine	25.3	POOR-FAIR	DRIVEWAY	0	LOSS
26	Canary island pine	16.9	POOR	DRIVEWAY	1	LOSS
27	Coast live oak	10.2	FAIR	GRADING	12	NO VISIBLE IMPACT
28	Coast live oak	10.8	FAIR	GRADING	20	NO VISIBLE IMPACT
29	Canary island pine	12.7	VERY POOR-POOR	DRIVEWAY	20	REDUCED VIGOR, INCREASED FAILURE POTENTIAL
30	Canary island pine	15.4	VERY POOR-POOR	DRIVEWAY	20	REDUCED VIGOR, INCREASED FAILURE POTENTIAL
31	Italian stone pine	32.2	FAIR	DRIVEWAY	95	NO VISIBLE IMPACT

APPENDIX C: RECOMMENDATIONS

#	COMMON NAME	CONDITION	DIAMETER (inches)	PRESERVE OR REMOVE	TREE PROTECTION ZONE (feet from trunk)	FENCING	IRRIGATION
1	COAST REDWOOD	GOOD	13.1	REMOVE			
2	COAST REDWOOD	FAIR	3.8	REMOVE			
3	COAST REDWOOD	POOR	9.2	PRESERVE	5	Straw bale barrier	Monthly
4	COAST REDWOOD	FAIR	13.1	PRESERVE	28	Chain-link or stake-wire-orange plastic	Same as above
5	COAST LIVE OAK	FAIR	22.3	PRESERVE	5 to 20	Fence as above, with straw bale barrier at retaining wall	
6	VALLEY OAK	POOR	26.1	PRESERVE	11	Same as above	Every two months
7	CA PEPPERTREE	VERY POOR – POOR	20.7	REMOVE			
8	COAST REDWOOD	FAIR	8.8	PRESERVE	5	STRAW BALE BARRIER	Monthly
9	COAST REDWOOD	POOR-FAIR	21.7, 12.7	REMOVE			
10	COAST REDWOOD	FAIR	21	REMOVE			
11	COAST REDWOOD	FAIR	24.8	REMOVE			
12	COAST REDWOOD	FAIR	18	REMOVE			
13	COAST REDWOOD	FAIR	22.9. 11.8	REMOVE			
14	COAST REDWOOD	FAIR-GOOD	22.3	REMOVE			
15	COAST REDWOOD	FAIR	18.8	REMOVE			
16	COAST REDWOOD	FAIR-GOOD	25.5	REMOVE			
17	COAST REDWOOD	POOR	6.1, 13.7	REMOVE			
18	COAST REDWOOD	POOR-FAIR	19.1, 10.8	REMOVE			

#	COMMON NAME	CONDITION	DIAMETER (inches)	PRESERVE OR REMOVE	TREE PROTECTION ZONE (feet from trunk)	FENCING	IRRIGATION
19	COAST REDWOOD	POOR	17.8	REMOVE			
20	COAST REDWOOD	FAIR	29.9	REMOVE			
21	Canary island pine	POOR	15.6	REMOVE			
22	Canary island pine	POOR	18.2, 16.9	REMOVE			
23	Canary island pine	POOR	23.9	REMOVE			
24	Canary island pine	POOR	28.5	REMOVE			
25	Canary island pine	POOR-FAIR	25.3	REMOVE			
26	Canary island pine	POOR	16.9	REMOVE			
27	Coast live oak	FAIR	10.2	PRESERVE	12	Chain-link or stake-wire-orange plastic	
28	Coast live oak	FAIR	10.8	PRESERVE	15	Chain-link or stake-wire-orange plastic	
29	Canary island pine	VERY POOR-POOR	12.7	REMOVE			
30	Canary island pine	VERY POOR-POOR	15.4	REMOVE			
31	Italian stone pine	FAIR	32.2	PRESERVE	95	Chain-link or stake-wire-orange plastic	

CERTIFICATION OF PERFORMANCE

I, Michael Baefsky certify:

- That I have personally inspected the trees and the property referred to in this report, and have stated my findings accurately. The extent of the evaluation is stated in the attached report;
- That I have no current or prospective interest in the vegetation or the property that is the subject of this report and have no personal interest or bias with respect to the parties involved;
- That the analysis, opinions, and conclusions stated herein are my own;
- That my analysis, opinions, and conclusions were developed and this report has been prepared according to commonly accepted arboricultural practices;
- That no one provided significant professional assistance to the consultant, except as indicated within the report;
- That my compensation is not contingent upon the reporting of a predetermined conclusion that favors the cause of the client or any other party.

I further certify that I am Registered Consulting Arborist #456, a member of the American Society of Consulting Arborists, and acknowledge, accept, and adhere to the ASCA Standards of Professional Practice. I am International Society of Arboriculture Certified Arborist #WE0222A, and have been involved in the practice of arboriculture and the study of trees for over twenty years.

Signed: _____ *Date:* 4/1/08

Mr. Richard Holt Lot 66 Sierra Vista Way, Lafayette CA April 1, 2008
Updated Arborist Report

APPENDIX B – CONSTRUCTION IMPACTS

#	COMMON NAME	DIAMETER (inches)	CONDITION	CLOSEST ITEM	DISTANCE FROM TRUNK (feet)	IMPACT
1	COAST REDWOOD	13.1	GOOD	DRIVEWAY	0	LOSS
2	COAST REDWOOD	3.9	FAIR	DRIVEWAY	0	LOSS
3	COAST REDWOOD	9.3	POOR-FAIR	DRIVEWAY	3.5	REDUCED VIGOR, INCREASED FAILURE POTENTIAL
4	COAST REDWOOD	12.1	FAIR	DRIVEWAY	0	LOSS
5	COAST LIVE OAK	22.3	FAIR	RETAINING WALL	2.5	REDUCED VIGOR, INCREASED FAILURE POTENTIAL
6	VALLEY OAK	24.1	POOR	STORM DRAIN INLET	12	REDUCED VIGOR, INCREASED FAILURE POTENTIAL
7	CA PEPPERTREE	20.7	VERY POOR-POOR	DRIVEWAY	6	LOSS
8	COAST REDWOOD	8.6	FAIR	STORM DRAIN INLET	3	REDUCED VIGOR
9	COAST REDWOOD	21.7, 12.7	POOR-FAIR	HOUSE	0	LOSS
10	COAST REDWOOD	21.0	FAIR	HOUSE	0	LOSS
11	COAST REDWOOD	24.8	FAIR	HOUSE	0	LOSS
12	COAST REDWOOD	18.0	FAIR	HOUSE	0	LOSS
13	COAST REDWOOD	22.9, 11.8	FAIR	HOUSE	0	LOSS
14	COAST REDWOOD	22.3	FAIR-GOOD	HOUSE	0	LOSS
15	COAST REDWOOD	18.6	FAIR	HOUSE	0	LOSS
16	COAST REDWOOD	23.3	FAIR-GOOD	HOUSE	2	LOSS

BAISKY & ASSOCIATES ENVIRONMENTAL LANDSCAPE CONSULTING

Mr. Richard Holt Lot 66 Sierra Vista Way, Lafayette CA April 1, 2008
Updated Arborist Report

#	COMMON NAME	DIAMETER (inches)	CONDITION	CLOSEST ITEM	DISTANCE FROM TRUNK (feet)	IMPACT
17	COAST REDWOOD	6.1, 13.7	POOR	HOUSE	0	LOSS
18	COAST REDWOOD	19.1, 10.8	POOR-FAIR	HOUSE	0	LOSS
19	COAST REDWOOD	17.8	POOR	HOUSE	0	LOSS
20	COAST REDWOOD	29.9	FAIR	HOUSE	2	LOSS
21	Canary Island pine	13.6	POOR	HOUSE	0	LOSS
22	Canary Island pine	14.2, 14.9	POOR	HOUSE	1	LOSS
23	Canary Island pine	23.9	POOR	PARKING	1	LOSS
24	Canary Island pine	22.5	POOR	DRIVEWAY	0	LOSS
25	Canary Island pine	23.3	POOR-FAIR	DRIVEWAY	0	LOSS
26	Canary Island pine	18.9	POOR	DRIVEWAY	1	LOSS
27	Coast live oak	10.2	FAIR	GRADING	12	NO VISIBLE IMPACT
28	Coast live oak	10.8	FAIR	GRADING	20	NO VISIBLE IMPACT
29	Canary Island pine	12.7	VERY POOR-POOR	DRIVEWAY	20	REDUCED VIGOR, INCREASED FAILURE POTENTIAL
30	Canary Island pine	13.4	VERY POOR-POOR	DRIVEWAY	20	REDUCED VIGOR, INCREASED FAILURE POTENTIAL
31	Italian stone pine	32.2	FAIR	DRIVEWAY	95	NO VISIBLE IMPACT

Mr. Richard Holt Lot 66 Sierra Vista Way, Lafayette CA April 1, 2008
Updated Arborist Report

APPENDIX C: RECOMMENDATIONS

#	COMMON NAME	CONDITION	DIAMETER (inches)	PRESERVE OR REMOVE	TREE PROTECTION ZONE (feet from trunk)	FENCING	IRRIGATION
1	COAST REDWOOD	GOOD	13.1	REMOVE			
2	COAST REDWOOD	FAIR	3.9	REMOVE			
3	COAST REDWOOD	POOR	9.3	PRESERVE	3	Same tree barrier	Monthly
4	COAST REDWOOD	FAIR	13.1	PRESERVE	21	Chain-link or rabbi-wire-orange plastic	Same as above
5	COAST LIVE OAK	FAIR	22.3	PRESERVE	5 to 20	Fence as above, with new tree barrier at existing wall	Same as above
6	VALLEY OAK	POOR	24.1	PRESERVE	21	Same as above	Every two months
7	CA PEPPERTREE	VERY POOR – POOR	20.7	REMOVE			
8	COAST REDWOOD	FAIR	8.6	PRESERVE	5	STRAW BALE BARRIER	Monthly
9	COAST REDWOOD	POOR-FAIR	21.7, 12.7	REMOVE			
10	COAST REDWOOD	FAIR	21	REMOVE			
11	COAST REDWOOD	FAIR	24.8	REMOVE			
12	COAST REDWOOD	FAIR	18	REMOVE			
13	COAST REDWOOD	FAIR	22.9, 11.8	REMOVE			
14	COAST REDWOOD	FAIR-GOOD	22.3	REMOVE			
15	COAST REDWOOD	FAIR	18.6	REMOVE			
16	COAST REDWOOD	FAIR-GOOD	23.3	REMOVE			
17	COAST REDWOOD	POOR	6.1, 13.7	REMOVE			
18	COAST REDWOOD	POOR-FAIR	19.1, 10.8	REMOVE			

Mr. Richard Holt Lot 66 Sierra Vista Way, Lafayette CA April 1, 2008
Updated Arborist Report

#	COMMON NAME	CONDITION	DIAMETER (inches)	PRESERVE OR REMOVE	TREE PROTECTION ZONE (feet from trunk)	FENCING	IRRIGATION
19	COAST REDWOOD	POOR	17.8	REMOVE			
20	COAST REDWOOD	FAIR	29.9	REMOVE			
21	Canary Island pine	POOR	13.6	REMOVE			
22	Canary Island pine	POOR	14.2, 14.9	REMOVE			
23	Canary Island pine	POOR	23.9	REMOVE			
24	Canary Island pine	POOR	22.5	REMOVE			
25	Canary Island pine	POOR-FAIR	23.3	REMOVE			
26	Canary Island pine	POOR	18.9	REMOVE			
27	Coast live oak	FAIR	10.2	PRESERVE	12	Chain-link or rabbi-wire-orange plastic	
28	Coast live oak	FAIR	10.8	PRESERVE	12	Chain-link or rabbi-wire-orange plastic	
29	Canary Island pine	VERY POOR-POOR	12.7	REMOVE			
30	Canary Island pine	VERY POOR-POOR	13.4	REMOVE			
31	Italian stone pine	FAIR	32.2	PRESERVE	95	Chain-link or rabbi-wire-orange plastic	

BAISKY & ASSOCIATES ENVIRONMENTAL LANDSCAPE CONSULTING

LEGEND

- P.U.E. PUBLIC UTILITY EASEMENT PER (173 PM 32).
- P.A.U.E. PRIVATE ACCESS AND UTILITY EASMENT PER (173 PM 32)
- E.B.M.U.D. PUBLIC WATER LINE EASEMENT PER (173 PM 32).
- RW REDWOOD TREE
- (485) PROPOSED ELEVATION
- (X) PROPOSED GRADE ELEVATION
- GS GROUND ON SLOPE
- (456) PROPOSED CONTOUR
- 456 EXISTING CONTOUR
- X461.0 SPOT ELEVATION
- TW TOP OF WALL
- BW BOTTOM OF WALL
- DS PROPOSED DOWN SPOUT
- LFF LOWER FINISH FLOOR
- UFF UPPER FINISH FLOOR
- PROPOSED STORM DRAIN
- DENOTES PAVING
- DENOTES TURF BLOCK
- DENOTES STACKED BROKEN CONCRETE WALLS TO BEREMOVED
- ⊗X DENOTES TREE TO BE REMOVED

CONNECT ROOF LEADERS ALONG WEST SIDE OF HOUSE TO NEW 6" STORM ROOF LEADERS ARE SHOWN SCHEMATICALLY

CENTER LINE PG&E R/W (PER 985 OR 328) NO WIDTH OF RECORD LOCATION SCALED PER (53 M 12)

SESSIONS ROAD

SIERRA VISTA WAY (FORMERLY FIRST STREET) (50' WIDE)

1.0' WIDE PAVED DRAINAGE SWALE

ASPHALT DITCH

PAVEMENT EDGE OF ROAD

6" CONCRETE CURB

CONSTRUCT CHRISTY "V64" INLET

OVERHEAD WIRES

EDGE OF PAVEMENT(TYP.)

PROPOSED RET. WALL WITH 6" CURB & 42" HIGH GARD RAIL

EX. BERM

PROPOSED RET. WALL

CONSTRUCT CHRISTY V64 JUNCTION BOX

PROPOSED HOUSE

PROPOSED DETACHED GARAGE

PROPOSED DECK

REMOVE STACKED BROKEN CONCRETE WALL TO PROPERTY LINE

INSTALL CHRISTY "U21" INLET AT BACK OF EXISTING WOOD WALL WITH 6" OUTLET PIPE TO EXISTING CURB INLET. SAW CUT EXISTING SIDEWALK AND CORE DRILL THROUGH BACK OF INLET. INSTALL 6" STORM DRAIN. POUR NEW CONCRETE SIDEWALK TO CONFORM TO EXISTING.

WOOD RETAINING WALL

STACKED BROKEN CONCRETE WALL

STEPS

EXISTING GARAGE

STONE RETAINING WALL

EXISTING HOUSE

STACKED BROKEN CONCRETE WALL TO BE REMOVED TO PROPERTY LINE

CENTER LINE PG&E R/W (PER 985 OR 328) NO WIDTH OF RECORD LOCATION SCALED PER (53 M 12)

CREATE 2' WIDE BY 9' DEEP SWALE. LINE WITH FACING CLASS ROCK. SEE DETAIL

ROOF LEADERS TO DRAIN TO SWALE ROOF LEADERS SHOWN SCHEMATICALLY

TRANSPLANT OAK

CONSTRUCT 3' HI RETAINING WALL

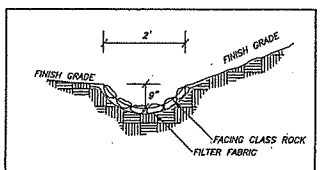
SWARTS APN 232-052-010

PARCEL A 173 PM 32

NOTE

ANY AND ALL UNDERGROUND UTILITY LOCATIONS SHOWN HEREON ARE APPROXIMATE LOCATIONS DERIVED FROM AVAILABLE RECORDS.

EXISTING UNDERGROUND UTILITY LOCATIONS ARE APPROXIMATE ONLY. CONTACT UNDERGROUND SERVICE ALERT (USA) AT 1-800-227-2600 48 HOURS PRIOR TO DIGGING.



DRAINAGE SWALE FOR ROOF LEADERS

SCALE: 1"=10'

CONTOUR INTERVAL = 2'

RECEIVED
APR 0 3 2008
CITY OF LAFAYETTE PLANNING DEPT.

HDP47-07

REV: 03-28-08
REV: 01-29-08
REV: 01-11-08
REV: 10-31-07
REV: 10-29-07
REV: 10-23-07
REV: 10-19-07
REV: 9-21-07
REV: 9-19-07

PRELIMINARY SITE MAP OF A PORTION OF LOT 66 LA CANYADA PARK – UNIT NO. 2 (55 M 12) CITY OF LAFAYETTE CONTRA COSTA COUNTY, CALIFORNIA

SCHELL AND MARTIN, INC.
LAND SURVEYING AND CIVIL ENGINEERING
3377 MT. DIABLO BOULEVARD
LAFAYETTE, CALIFORNIA 925 283-8111

FOR: DICK HOLT
85 MORAGA WAY
ORINDA, CA 94563

REGISTERED PROFESSIONAL ENGINEER HOWARD G. MARTIN No. 54357 EXP. 12-31-08 CIVIL STATE OF CALIFORNIA

HOWARD G. MARTIN LS 6650 EXP. DATE 12-31-09

BY HGM/RGA FB 594 P 40-46 504 60-61 JOB NO. 401-03A

DATE 10/27/2003 SCALE 1"= 10' SHEET 2 OF 2

TREE SURVEY

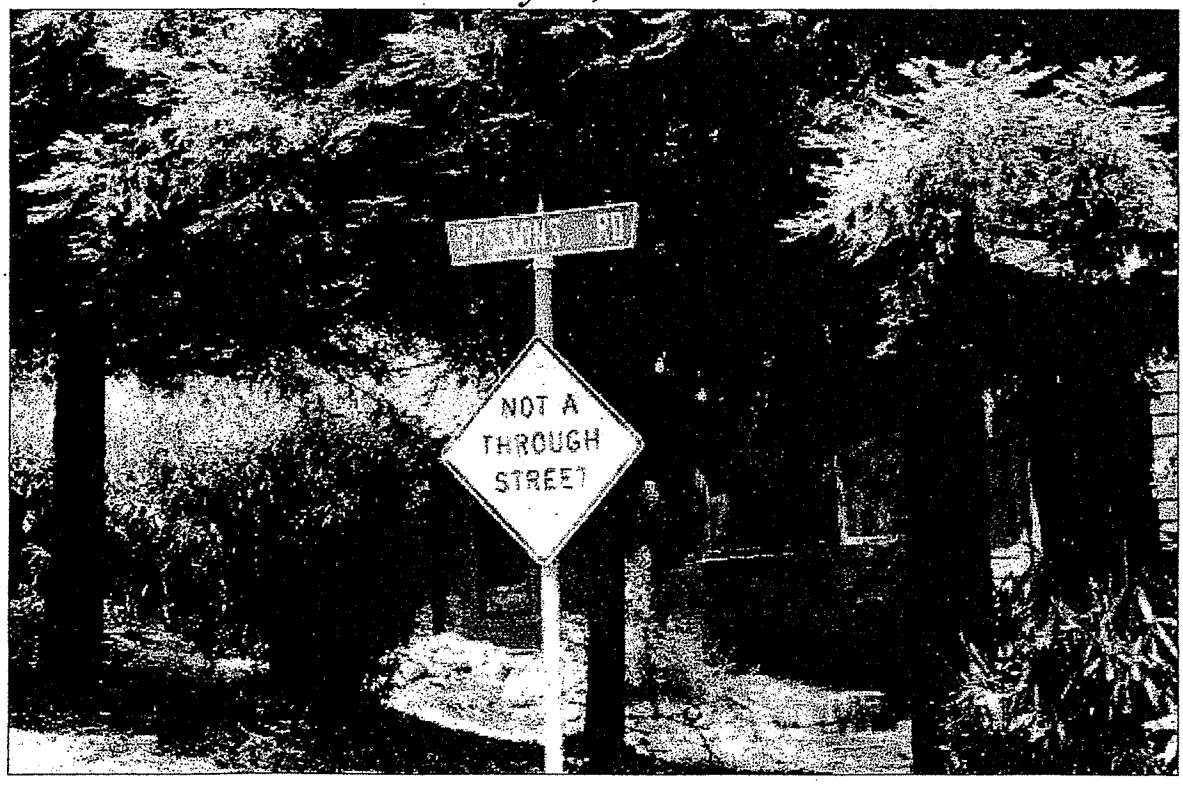
C:\D_DRIVE\PROJECTS\2003\401-03A\HOLT SITE PLAN 3 29 08.dwg Fri, Mar 28 16:41:5 2008

BAEFSKY & ASSOCIATES
ENVIRONMENTAL LANDSCAPE CONSULTING

ARBORIST REPORT
For Trees Located
On
Lot 66, Sierra Vista Way

Lafayette CA

July 6, 2007



Report Prepared for: Mr. Richard Holt
3929 Woodside Court
Lafayette, CA 94549

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CITY OF LAFAYETTE
PLANNING DEPT.

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SUMMARY

This report adds to and corrects the previous report (Baefsky & Associates, May 29, 2007), which addressed seven select trees. Identification, measurement and evaluation of thirty-one trees are included in this report. Species identified include *Pinus canariensis* (Canary island pine), *P. pinea* (Italian stone pine), *Quercus agrifolia* (coast live oak), *Q. lobata* (valley oak), *Schinus molle* (CA peppertree) and *Sequoia sempervirens* (coast redwood). Tree condition ranged from very poor to good. The distance of potential negative impacts from tree trunks ranged from zero to ninety-five feet. Items shown on the site plan that are likely to affect trees include a storm drain, retaining wall, parking area, driveway and house. Probable negative results of these impacts are tree loss, reduced vigor, slower growing rates and increased failure potential. Recommendations are for the removal of twenty-one trees and the preservation of ten trees. Preservation measures include immediate root crown excavations, fencing or straw bale barriers, air-spade root excavation, root pruning, silt fence installation, supplemental irrigation and clearance pruning,

INTRODUCTION

BACKGROUND

The site is an undeveloped lot in the City of Lafayette, on which construction of a new residence is proposed. This lot begins at the intersection of Sessions Road and Sierra Vista Way, and continues uphill next to Sessions Road, where it abuts currently undeveloped property. There is a drainage swale in the middle of the property, and an existing dwelling located next to the property. Across the road, a steep slope is dotted with pine trees.

ASSIGNMENT

Mr. Richard Hold hired me to evaluate trees on and adjacent to the site, in accordance with requests by the City of Lafayette Planning Department.

LIMITS OF ASSIGNMENT

With one exception requested by my client, assessment of trees was limited to those greater than or equal to six inches in diameter. The negative impacts of proposed construction were evaluated based on the most recent site plan (E.G. Craig, 7/3/07) that was provided by the clients architect. Survivability is the basis for recommendations for preservation or removal, given proposed site work, and its likely impact on the trees.

PURPOSE AND USE OF REPORT

This report is for the exclusive use of the client and his contractors and the City of Lafayette, as part of an application for the development of this property. The purpose of this report is to provide accurate information about the trees in question, as required by the City of Lafayette.

OBSERVATIONS

METHODS

The following report is derived from four field inspections, including one site meeting in which the site and trees were discussed with client and site architect. Thirty-one trees were tagged, numbered, measured at 4.5 feet (above existing grade), and evaluated.

Evaluation of negative impacts of construction included measuring distances from each tree trunk to the closest proposed site work, and taking into account tree size, species, species tolerance of construction and individual tree condition.

The following items are included in this report:

- Analyses of individual tree condition
- Evaluations of potential construction impacts on trees
- Recommendations for tree removal & preservation

Dates of Field Meeting and Inspection: 4/26/07, 5/25/07, 7/1/07 and 7/3/07

Measurement of trunk circumferences was at 4.5 feet above ground, unless otherwise noted. Trunk diameter estimates are from the division of measured trunk circumferences by 3.14.

Overall tree condition included a zero (worst) to five (best) assessment of tree **vigor**, and separately tree **structure.** A zero to five rating system was also used for rating tree condition, with zero being dead, and five being excellent. Examination of the following characteristics were used to rate the trees.

Parameter	Items Evaluated
Soil/rooting zone	plant cover, bare soil, disturbed soil
Root crown region	damage, cavities, soil build-up
Trunk lean	wounds, cavities, twists
Scaffold branches	wounds, cavities, poor pruning, co-dominance, crotch angle, bark at crotches
Branches	distribution, deadwood, cavities
Twigs	growth, dieback
Leaves	growth, color, size

SITE DATA

- Six tree species were identified on site; *Pinus canariensis* (Canary island pine), *P. pinea* (Italian stone pine), *Schinus molle* (CA peppertree), *Sequoia sempervirens* (coast redwood), *Quercus agrifolia* (coast live oak) and *Q. lobata* (valley oak)
- Tree diameters ranged from 3.8 inches to 32.2, averaging 18.7 inches
- Tree condition ranged from very poor-poor to good, averaging poor-fair (see Appendix A – Tree Data)

- Analysis of negative impacts of proposed construction included consideration of the following list of species tolerance of construction:

Common Name	Tolerance of Construction
Canary island pine	Good
CA peppertree	Moderate
coast live oak	Good to moderate*
coast redwood	Excellent
Italian stone pine	Good
valley oak	Moderate*

- Due to proposed work near the trees, the following negative impacts to trees are anticipated (see Appendix B – Impacts of Construction):

IMPACT	NUMBER OF TREES	TOTAL PERCENT OF POPULATION EVALUATED
Reduced Vigor, Increased Failure Potential	2	6%
Reduced Vigor	3	10%
No Visible Impacts	8	26%
Loss	18	58%

DISCUSSION

Proposed construction will result in the loss of the majority of the trees evaluated on this property. Twenty six percent of the trees show no visible impacts from work described on the site plan. Sixteen percent of the trees will show some negative impacts, but are likely to survive work shown on the site plan.

Several of the trees that may survive construction are in poor to very poor condition. Their current value is low, and following new construction, they will not add a lot of benefit to the site.

CONCLUSIONS

- Remove trees that will not survive construction and several that are in poor to very poor condition
- Preserve as many trees as possible, that are in poor to good condition

* Matheny and Clark, 1998

RECOMMENDATIONS

Given existing site plans:

- Remove eighteen trees that are likely to fail due to site work
- Remove three trees (#7, #29, #30) that are in poor to very poor condition
- Preserve ten trees
- For trees to be preserved:
  - Excavation and inspection of root crown region and & modification of grading as needed to allow positive drainage away from trunks
  - Installation of protective fencing or straw bale barriers
  - Supplemental irrigation for species with high water use needs (Coast redwood), and/or as indicated by consulting arborist
  - Air spade trenching and selective professional root pruning where cuts or excavations occurring within rooting zone – *after site has been staked consulting arborist shall confirm or deny the need for this treatment*
  - Pruning for clearance – *carried out conservatively, as needed, prior to grading in order to preserve as much live foliage as is possible. Evaluation of site prior to grading will determine the need for clearance pruning.*

TREE PRESERVATION PROGRAM (See Appendix C – Recommendations)

Prior to Grading

1. ROOT CROWN EXCAVATION & INSPECTION: A pneumatic air spade blasts soil and debris away from the trunk. Visual and/or drill evaluation of trunk decay and soundness is carried out, and prescriptions for correcting or preventing problems are developed based on the analysis.

2. TRUNK PROTECTIVE FENCING OR STRAW BALE BARRIERS: Install 6' high fencing outside of tree protection zone (TPZ) that is not readily movable, flexible or bendable. Supervision of all work within TPZ shall be by consulting Certified Arborist. Installation of straw bale barriers shall be up against the trunks of designated trees, to prevent vehicle impacts.

3. SUPPLEMENTAL IRRIGATION: High water use species such as coast redwood shall receive bi-monthly to monthly supplemental irrigation to increase tree vigor. Irrigation of other specimens shall be determined on site as needed.

4. AIR SPADE ROOT EXCAVATION & SELECTIVE PROFESSIONAL ROOT PRUNING: Cuts within tree driplines preceded by air spade excavation along edge of cut or fill to determine the need and access for professional root pruning.

5. CLEARANCE PRUNING: Trees with limbs overhanging proposed work areas should have branches tied back temporarily, or if the trees are mature, lower branches removed. Where pruning is necessary, the following guidelines shall be followed:

- Limbs three inches (and greater) in diameter to be removed shall be clearly indicated prior to removal.
-

6. SILT FENCING: Install silt fencing on the uphill side of protective fencelines as needed to prevent the build-up of soil around tree trunks

During Construction

1. ROOT REPAIR: Sharply cut torn roots within protected rooting zones and cover with wet burlap or soil to prevent drying out. Activity within dripline regions require the consulting certified arborists on hand to monitor equipment activity, repair damaged roots, and assists in mitigating rooting zone degradation.

2. SUPPLEMENTAL IRRIGATION: As directed by consulting arborist. Wash dust off coast redwood foliage daily.

MONITORING PROGRAM

Supervise (consulting arborist) the following *tree preservation activities*: Root Crown Excavation, Clearance Pruning, Fencing/Straw bale barrier Placement, Air Spade excavation & Root Cutting. Grubbing & Grading within tree driplines

AFTER CONSTRUCTION

1. ROOT CARE: Maintain moisture at an adequate level for root growth to proceed at a normal pace. Moisture levels should approximate the water cycle of the trees, which is dry summer and wet winters. If droughty conditions prevail, supplemental irrigation may be appropriate through late spring in early fall and winter.

Use plant material that has the same water needs, and compatible cultural needs as the trees preserved.

2. ROOT CROWN REGION: Keep clear of debris, soil and moisture. Divert runoff from uphill so that it does not encounter tree trunks or pool and stand near roots.

3. TRUNK: Do not install lights, tree houses or any other constructs, which wound the trunk.

4. CROWN OR CANOPY: Avoid pruning as long as possible after construction, except for dead and dying branches. Evaluate trees after two years for "corrective" structural pruning.

GLOSSARY OF TERMS

driplines – areas extending downward in an imaginary line from a tree's outermost branches to the ground

vigor – a tree's ability to grow and resist pests, diseases, weeds and other stresses

structure – a tree's non-living balance, which allows a tree to stand and grow with minimal failures

tree protection zones - Protect all area within designated tree protection zones from foot traffic, vehicle incursion and storage of construction related items.

REFERENCES

Tree Protection Ordinance 539. 2003. City of Lafayette Municipal Code: Chapter 6-17.

Trees and Development. 1998. Nelda Matheny and James R. Clark. International Society of Arboriculture. Champaign, IL.

APPENDIX A – TREE DATA

#	COMMON NAME	DIAMETER (inches)	ROOTING ZONE	ROOT CROWN	TRUNK	SCAFFOLDS	SMALLER BRANCHES	TWIGS	FOLIAGE	CONDITION
1	COAST REDWOOD	13.1	pervious within dripline	flare	good taper	ok	ok	normal	normal	GOOD
2	COAST REDWOOD	3.8	pervious within dripline	buried	leaning, no taper	ok	ok	normal	normal	FAIR
3	COAST REDWOOD	9.2	pervious within dripline	buried	minimal taper	stubbed lower	ok	normal	normal	POOR-FAIR
4	COAST REDWOOD	13.1	pervious within dripline	buried	minimal taper	ok	ok	normal	normal	FAIR
5	COAST LIVE OAK	8.9, 13.7	pervious	buried	leaning, recent wounds	top only	lower stripped out	normal	normal	FAIR
6	VALLEY OAK	26.1	steep slope	1/2 *buried*	twisted, *wire* embedded	Co-dominant *upright*	shaded *dieback*	shaded *dieback*	45% *defoliated*	POOR
7	CA PEPPERTREE	20.7	limited, rubble, cut	buried, decayed	45-60% decay	Co-dominant top, galls, stubbed	stunted	normal	normal	VERY POOR-POOR
8	COAST REDWOOD	8.8	restricted, pervious, no irrigation	buried	minimal taper	good distribution	ok	ok	ok	FAIR
9	COAST REDWOOD	21.7, 12.7	limited, dry, debris piles	buried	co-dominant	good distribution	ok	ok	ok	POOR-FAIR
10	COAST REDWOOD	21.0	limited, dry, debris piles	buried	minimal taper	ok	ok	ok	ok	FAIR
11	COAST REDWOOD	24.8	edge of steep slope	buried	good taper	50% distribution/ grove	shaded dieback	ok	ok	FAIR
12	COAST REDWOOD	18.0	slope	buried	minimal taper	lower, interior dieback	shaded dieback	ok	ok	FAIR
13	COAST REDWOOD	22.9. 11.8	slope	buried, sprouts	co-dominant	75% distribution, grove	ok	ok	ok	FAIR
14	COAST REDWOOD	22.3	slope, pervious	partially clear, sprouts	good taper	shaded, interior dieback	ok	ok	ok	FAIR-GOOD
15	COAST REDWOOD	18.8	slope, pervious	flare	minimal taper	lower, interior dieback	ok	ok	ok	FAIR
16	COAST REDWOOD	25.5	steep slope, debris piles	buried	good taper	75% distribution, grove	lower shaded dieback	ok	older browning	FAIR-GOOD

ARBORIST REPORT

#	COMMON NAME	DIAMETER (inches)	ROOTING ZONE	ROOT CROWN	TRUNK	SCAFFOLDS	SMALLER BRANCHES	TWIGS	FOLIAGE	CONDITION
17	COAST REDWOOD	6.1, 13.7	steep slope	25% buried	co-dominant, minimal taper	top 66%	sparse	ok	ok	POOR
18	COAST REDWOOD	19.1, 10.8	steep slope, swale	sprouts	co-dominant, minimal taper	75% distribution, grove	ok	ok	older browning	POOR-FAIR
19	COAST REDWOOD	17.8	steep slope, swale	sprouts	minimal taper	25% distribution, grove	sprouts	ok	older browning	POOR
20	COAST REDWOOD	29.9	steep slope	25% buried	good taper, one indentation	75% distribution, grove	ok	ok	older browning	FAIR
21	Canary island pine	15.6	very steep	75% buried	minimal taper	top 33%	sparse	stunted	sparse	POOR
22	Canary island pine	18.2, 16.9	very steep	buried	co-dominant, included bark	66% distribution, grove	sparse	stunted	sparse	POOR
23	Canary island pine	23.9	swale	buried	topping wound, minimal taper	co-dominant, included bark	one large dead	sparse	sparse	POOR
24	Canary island pine	28.5	road, slope, swale	buried	topped at 30'	co-dominant where topped	ok	stunted	sparse	POOR
25	Canary island pine	25.3	slope, swale	75% buried	good taper	irregular distribution	dieback	stunted	sparse	POOR-FAIR
26	Canary island pine	16.9	slope	buried	leaning, minimal taper	irregular distribution	dieback	stunted	sparse	POOR
27	Coast live oak	10.2	slope	buried	lean	co-dominant	shaded dieback	ok	ok	FAIR
28	Coast live oak	10.8	slope, flat	buried	lean	co-dominant	shaded dieback	ok	ok	FAIR
29	Canary island pine	12.7	Steep slope	Buried	Topped	Small, weak	Shaded dieback	Stunted	Sparse	VERY POOR-POOR
30	Canary island pine	15.4	Very steep slope	Buried	Topped	Few	Shaded dieback	Stunted	Sparse	VERY POOR-POOR
31	Italian stone pine	32.17	Steep slope	Buried	Good taper	Ok distribution, two co-dominant	Shaded dieback	Good	Good	FAIR

APPENDIX B – IMPACTS OF CONSTRUCTION

#	COMMON NAME	DIAMETER (inches)	CONDITION	CLOSEST ITEM	DISTANCE FROM TRUNK (feet)	IMPACT
1	COAST REDWOOD	13.1	GOOD	STORM DRAIN	11	REDUCED VIGOR
2	COAST REDWOOD	3.8	FAIR	STORM DRAIN	16	REDUCED VIGOR
3	COAST REDWOOD	9.2	POOR-FAIR	STORM DRAIN	24	NO VISIBLE IMPACT
4	COAST REDWOOD	13.1	FAIR	STORM DRAIN	28	NO VISIBLE IMPACT
5	COAST LIVE OAK	22.3	FAIR	HOUSE	21	NO VISIBLE IMPACT
6	VALLEY OAK	26.1	POOR	RETAINING WALL	11	REDUCED VIGOR, INCREASED FAILURE POTENTIAL
7	CA PEPPERTREE	20.7	VERY POOR-POOR	HOUSE	11	LOSS
8	COAST REDWOOD	8.8	FAIR	STORM DRAIN	5	REDUCED VIGOR
9	COAST REDWOOD	21.7, 12.7	POOR-FAIR	HOUSE	0	LOSS
10	COAST REDWOOD	21.0	FAIR	HOUSE	0	LOSS
11	COAST REDWOOD	24.8	FAIR	HOUSE	0	LOSS
12	COAST REDWOOD	18.0	FAIR	HOUSE	0	LOSS
13	COAST REDWOOD	22.9. 11.8	FAIR	HOUSE	0	LOSS
14	COAST REDWOOD	22.3	FAIR-GOOD	HOUSE	0	LOSS
15	COAST REDWOOD	18.8	FAIR	HOUSE	0	LOSS
16	COAST REDWOOD	25.5	FAIR-GOOD	HOUSE	2	LOSS
17	COAST REDWOOD	6.1, 13.7	POOR	HOUSE	0	LOSS
18	COAST REDWOOD	19.1, 10.8	POOR-FAIR	HOUSE	0	LOSS

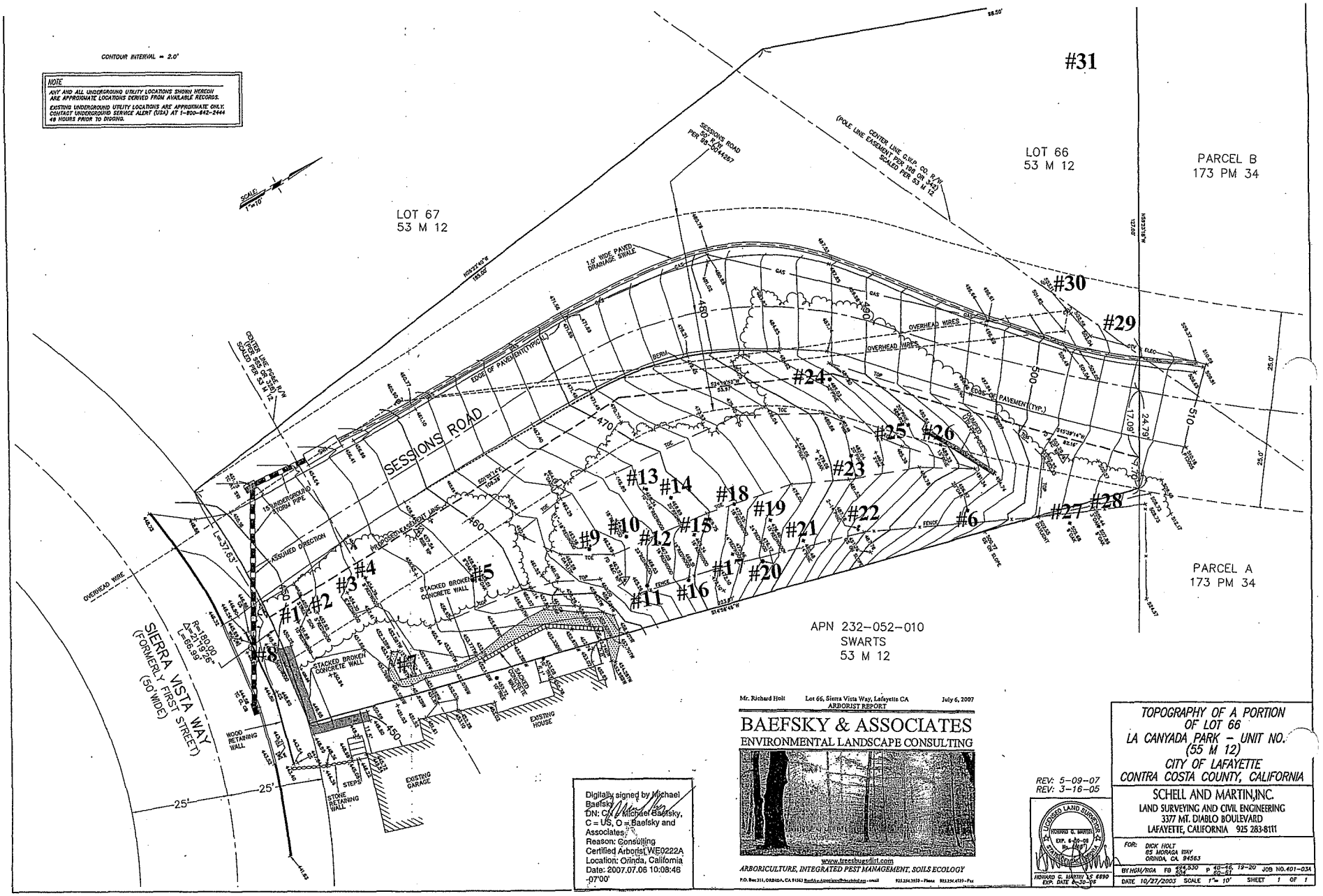
#	COMMON NAME	DIAMETER (inches)	CONDITION	CLOSEST ITEM	DISTANCE FROM TRUNK (feet)	IMPACT
19	COAST REDWOOD	17.8	POOR	HOUSE	0	LOSS
20	COAST REDWOOD	29.9	FAIR	HOUSE	2	LOSS
21	Canary island pine	15.6	POOR	HOUSE	0	LOSS
22	Canary island pine	18.2, 16.9	POOR	HOUSE	1	LOSS
23	Canary island pine	23.9	POOR	PARKING	1	LOSS
24	Canary island pine	28.5	POOR	DRIVEWAY	5	REDUCED VIGOR, INCREASED FAILURE POTENTIAL
25	Canary island pine	25.3	POOR-FAIR	DRIVEWAY	0	LOSS
26	Canary island pine	16.9	POOR	DRIVEWAY	1	LOSS
27	Coast live oak	10.2	FAIR	GRADING	12	NO VISIBLE IMPACT
28	Coast live oak	10.8	FAIR	GRADING	20	NO VISIBLE IMPACT
29	Canary island pine	12.7	VERY POOR-POOR	DRIVEWAY	70	NO VISIBLE IMPACT
30	Canary island pine	15.4	VERY POOR-POOR	DRIVEWAY	55	NO VISIBLE IMPACT
31	Italian stone pine	32.2	FAIR	DRIVEWAY	95	NO VISIBLE IMPACT

APPENDIX C – RECOMMENDATIONS

#	COMMON NAME	CONDITION	DIAMETER (inches)	PRESERVE OR REMOVE	TREE PROTECTION ZONE (feet from trunk)	FENCING	IRRIGATION
1	COAST REDWOOD	GOOD	13.1	PRESERVE	11	Chain-link or stake-wire-orange plastic	Monthly
2	COAST REDWOOD	FAIR	3.8	PRESERVE	16	Same as above	Same as above
3	COAST REDWOOD	POOR	9.2	PRESERVE	24	Same as above	Same as above
4	COAST REDWOOD	FAIR	13.1	PRESERVE	28	Same as above	Same as above
5	COAST LIVE OAK	FAIR	22.3	PRESERVE	21	Same as above	Same as above
6	VALLEY OAK	POOR	26.1	PRESERVE	11	Same as above	Every two months
7	CA PEPPERTREE	VERY POOR – POOR	20.7	REMOVE			
8	COAST REDWOOD	FAIR	8.8	PRESERVE	5	STRAW BALE BARRIER	Monthly
9	COAST REDWOOD	POOR-FAIR	21.7, 12.7	REMOVE			
10	COAST REDWOOD	FAIR	21.0	REMOVE			
11	COAST REDWOOD	FAIR	24.8	REMOVE			
12	COAST REDWOOD	FAIR	18.0	REMOVE			
13	COAST REDWOOD	FAIR	22.9. 11.8	REMOVE			
14	COAST REDWOOD	FAIR-GOOD	22.3	REMOVE			
15	COAST REDWOOD	FAIR	18.8	REMOVE			
16	COAST REDWOOD	FAIR-GOOD	25.5	REMOVE			
17	COAST REDWOOD	POOR	6.1, 13.7	REMOVE			
18	COAST REDWOOD	POOR-FAIR	19.1, 10.8	REMOVE			
19	COAST REDWOOD	POOR	17.8	REMOVE			
20	COAST REDWOOD	FAIR	29.9	REMOVE			

ARBORIST REPORT

#	COMMON NAME	CONDITION	DIAMETER (inches)	PRESERVE OR REMOVE	TREE PROTECTION ZONE (feet from trunk)	FENCING	IRRIGATION
21	Canary island pine	POOR	15.6	REMOVE			
22	Canary island pine	POOR	18.2, 16.9	REMOVE			
23	Canary island pine	POOR	23.9	REMOVE			
24	Canary island pine	POOR	28.5	PRESERVE	5	STRAW BALE BARRIER	Once per two months
25	Canary island pine	POOR-FAIR	25.3	REMOVE			
26	Canary island pine	POOR	16.9	REMOVE			
27	Coast live oak	FAIR	10.2	PRESERVE	12	Chain-link or stake-wire-orange plastic	
28	Coast live oak	FAIR	10.8	PRESERVE	15	Chain-link or stake-wire-orange plastic	
29	Canary island pine	VERY POOR-POOR	12.7	REMOVE			
30	Canary island pine	VERY POOR-POOR	15.4	REMOVE			
31	Italian stone pine	FAIR	32.2	PRESERVE	95	Chain-link or stake-wire-orange plastic	



Mr. Richard Holt Lot 66, Sierra Vista Way, Lafayette CA July 6, 2007
ARBORIST REPORT

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Digitally signed by Michael Baefsky
DN: CN = Michael Baefsky, C = US, O = Baefsky and Associates
Reason: Consulting Certified Arborist WE0222A
Location: Orinda, California
Date: 2007.07.06 10:08:46 -07'00'

REV: 5-09-07
REV: 3-16-05

LICENSED LAND SURVEYOR HOWARD G. MARTIN EXP. 6-30-08 STATE OF CALIFORNIA
HOWARD C. MARTIN, LS 6890
EXP. DATE 6-30-08

TOPOGRAPHY OF A PORTION OF LOT 66
LA CANYADA PARK - UNIT NO. 1
(55 M 12)
CITY OF LAFAYETTE
CONTRA COSTA COUNTY, CALIFORNIA

SCHELL AND MARTIN, INC.
LAND SURVEYING AND CIVIL ENGINEERING
3377 MT. DIABLO BOULEVARD
LAFAYETTE, CALIFORNIA 925 283-8111

FOR: DICK HOLT
85 MORAGA WAY
ORINDA, CA 94563

BY HGM/RGA FB 496,530 P 40-46, 79-20 JOB NO. 401-03A
504 92-27
DATE 10/27/2003 SCALE 1"= 10' SHEET 1 OF 1

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PLANNING DEPT.

May 25, 2008

Christine Sinnette, Senior Planner
City of Lafayette
3675 Mt. Diablo Blvd.
Lafayette, California 94549

RE: HDP47-07 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING, Account #1774

Dear Christine,

We have reviewed the submitted set of plans for a hillside development on a vacant lot at the intersection of Sierra Vista Way and Sessions Road. The plans are preliminary in nature, focusing on the massing and siting of a proposed two story single family. The architectural plans are dated March 14, 2008. The Preliminary Site Map is dated March 28, 2008.

Also reviewed was an arborist report, dated July 6, 2007, and a follow up memo dated April 1, 2008, prepared by Baefsky & Associates.

A site visit was made on May 21, 2008.

Site Observations and Recommendations

The property is located in the lower hills north of downtown. The subdivision along this portion of Sierra Vista Way was developed in the 1950s and 1960s and consists of mostly one story residences.

Any type of development on the truncated lot would prove to be challenging:

- Sessions Road bisects the lot running along the southwest property line, then traversing through the center as it climbs the hill. This leaves a relatively slender portion of the site 'available' for building.
- An existing swale runs the length of the lot between Sessions Road and the eastern property line (and the neighboring residence at 1139 Sierra Vista Way).

- The topography of the site ranges between a 4:1 slope near the lower portion at Sierra Vista Way and steepens to a 2:1 slope towards the back. The change in grade between the subject property and the existing residence to the east at 1139 Sierra Vista Way is significant (this is largely due to the excavated cut made into the hillside for the neighboring residence).
- Per conversations with the project planner, view impacts and disturbances due to site improvements on the property have been well documented.

Existing Trees and Recommended Mitigation Measures

Existing trees on the property are namely Canary Island pines, *Pinus canariensis*, and redwoods, *Sequoia sempervirens*. Other species include coast live oak, *Quercus agrifolia*, valley oak, *Quercus lobata*, Italian stone pine, *Pinus pinea*, and California pepper, *Schinus molle*.

While the trees have been tagged on site, it appears the numbers were written on copper tags with a marker, all of which have faded and are no longer legible. Please numerically tag all existing trees, per numbers listed on the Tree Survey. Utilize engraved metallic pendants.

The submitted arborist report is thorough. We agree with the majority of recommendations presented by Mr. Baefsky. Listed in the attached chart labeled *Tree Inventory & Replacement Tree Calculations*, are replacement tree counts for proposed tree removals. Additional recommendations are also given, regarding tree removal and tree preservation. Trees deemed to be preserved and not impacted are not listed.

All replacement tree counts for protected trees removed from the property are calculated by the following formula stated in the city of *Lafayette's Tree Protection Ordinance*:

- Replacement trees of two (2) 15 gallon species for each 6" of the diameter, or fraction there of, of the tree to be removed. The diameter of a multi-trunked tree is the sum of the diameters of its component trunks.

'Protected' trees are classified as a tree of *any* species with a diameter of six inches or more, regarding a development application on an undeveloped parcel.

For the non-native trees removed from the site, we recommend replacement trees be specified as either coast live oak or valley oak (both noted within the vicinity). Any substitutions must be approved by the city. Due to the relatively limited space on site and the high number of replacement trees, it is likely that the subject property can not accommodate all of the required replacement trees. In such instances, in-lieu of on-site replacement trees, the applicant may make payments set forth by the city council for each 15 gallon replacement tree. The in-lieu payment shall be used by the city for

a tree education or tree planting program. Recent values have equaled $250 per 15 gallon replacement tree.

Due to the high number of replacement trees (164-180, see chart below), the applicant may elect to utilize the following substitutions:

- Two (2) 15 gallon replacement trees in exchange for the planting of one (1) 24" box sized tree
- Four (4) 15 gallon replacement trees in exchange for the planting of one (1) 36" box sized tree
- Eight (8) 15 gallon replacement trees in exchange for the planting of one (1) 48" box sized tree
- Sixteen (16) 15 gallon replacement trees in exchange for the planting of one (1) 60" box sized tree
- Thirty-two (32) 15 gallon replacement trees in exchange for the planting of one (1) 72" box sized tree

If trees greater than 24" box sized containers are planted on the subject property or adjacent property, we suggest that the city and/or project arborist inspect each prior to planting. We also highly recommend that the project arborist be on-site to properly prepare rootball and planting pit at the time of planting.

Tree Inventory & Replacement Tree Calculation

#	Species	Dia.	Project arborist comments/ *Insideout Design Comments*	Save / Remove	Replacement Trees
1	Coast redwood	13"	Project arborist notes loss due to driveway impact. *Per supplied Site Map, it appears driveway is located 10 feet away (tree is shown to remain). Given proper tree protection measures are observed, tree should tolerate construction impacts. We recommend preservation.*	Save	---
2	Coast redwood	4"	Project arborist notes loss due to driveway impact. *Per supplied Site Map, it appears driveway is located 10 feet away (tree is shown to remain). Given proper tree protection measures are observed, tree should tolerate construction impacts. We recommend preservation.*	Save	---

4	Coast redwood	13"	'Fair' condition. Preserve *Tree is shown inside turf block area. Would require removal. We suggest turf block relocated to preserve tree.*	Save	---
5	Coast live oak	9", 14"	PA notes in the revised memo that the retaining wall is 2½' from tree. Reduced vigor, increased failure potential. Previously he stated "'buried' root crown, leaning, recent wounds, 'fair' condition". *The proposed retaining wall appears to be 11 feet away from oak. Proposed grading places fill within 6 feet of root crown. Proposed turf block is located within 4 feet of root crown.* *Given the poor structure of the oak, we suggest as plans progress for the property, great efforts should not be placed on its preservation. This would be especially valid if the oak's removal improved the architectural siting (minimized visual impact) of the residence.* *If the oak is preserved, we suggest no grading be made within 10 feet of tree and the turf block be removed from the vicinity. Retain project arborist to restore grade at root crown.*	TBD	8^
7	California pepper	21"	PA recommends removal based on 'very poor/poor' condition. *Tree does not appear to present a hazard. The applicant may retain tree if so desired*	TBD	8^
8	Coast redwood	9"	PA notes tree is 5 feet from proposed storm drain and describes impact as 'reduced vigor, increased failure potential'. *The proposed removal of the stacked broken concrete wall would likely place an adverse impact on tree. If wall is removed, we suggest that the arborist be on-site at the time of demolition.*	Save	---
9	Coast redwood	22", 13"	Building conflict.	Remove	12
10	Coast redwood	21"	Building conflict.	Remove	8
11	Coast redwood	25"	Building conflict.	Remove	10

12	Coast redwood	18″	Building conflict.	Remove	6
13	Coast redwood	23″, 12″	Building conflict.	Remove	12
14	Coast redwood	22″	Building conflict.	Remove	8
15	Coast redwood	19″	Building conflict.	Remove	8
16	Coast redwood	26″	Building conflict.	Remove	6
17	Coast redwood	6″, 14″	Building conflict.	Remove	8
18	Coast redwood	19″, 11″	Building conflict.	Remove	10
19	Coast redwood	18″	Building conflict.	Remove	8
20	Coast redwood	30″	Building conflict.	Remove	10
21	Canary island pine	16″	Building conflict.	Remove	6
22	Canary island pine	18″, 17″	Building conflict.	Remove	12
24	Canary island pine	29″	Building conflict.	Remove	10
23	Canary island pine	24″	Driveway conflict.	Remove	4
25	Canary island pine	25″	Driveway conflict.	Remove	8
26	Canary island pine	17″	Driveway conflict.	Remove	6
29	Canary island pine	13″	Rated as 'very poor-poor'. Removal recommended. *Tree is shown to remain on the Preliminary Site Map. While the tree is outside of the scope of work and would not likely be impacted, we agree with the PA and recommend removal at this time of site improvements. Due to the proximity to the neighboring residence at 1117 Sierra Vista Way, the tree will soon present a hazard.*	Remove	6

30	Canary island pine	15"	*Same as above*	Remove	6

^Replacement count may be reduced if tree is preserved.

The total replacement tree count would range between one hundred sixty-four to one hundred eighty (164-180) 15 gallon replacement trees per the proposed Site Plan.

Recommendations for *Preliminary Site Map*

1. Please include a graphic scale on subsequent plans.
2. Number trees per arborist report.
3. Reconsider the use of two access points (and 'curb cuts') along Sessions Road by consolidating driveway and parking areas. If the proposed turf block remains, verify that the 11% slope would not be problematic regarding vehicular traction.
4. A 3' high retaining wall is shown along the southeastern property line. Based on the proposed grades versus the existing grades at the neighboring residence (and the height of the existing concrete retaining wall in the vicinity), it appears the change in grade would be closer to 5 or 6 feet. Please verify finished grades and provide railings if applicable.
5. As plans progress, please include arborist recommendations on the final Grading Plan or on a Separate Tree Protection sheet.

Please contact us if you have questions or need additional information.
Sincerely,
INSIDEOUT DESIGN, INC

Pennell Phillips
Landscape Consultant
Certified Arborist, WE-6608A

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PRELIMINARY GEOTECHNICAL RECONNAISSANCE REPORT SIERRA VISTA WAY AT SESSIONS ROAD TRACT 5332 LOT 66 LAFAYETTE, CALIFORNIA

CE&G Project No. 070580
21 May 2007

Prepared for:
Mr. Richard Holt
c/o E.G. Craig
3738 Mount Diablo Boulevard
Lafayette, California 94549

Prepared by:
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HDP 47-07

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23 May 2007

Mr. Richard Holt
c/o E.G. Craig
3738 Mount Diablo Boulevard
Lafayette, California 94549

RE: Preliminary Geotechnical Reconnaissance Report
Sierra Vista Way at Sessions Road
Tract 533-2 Lot 66
Lafayette, California 94549

Dear Mr. Holt:

In accordance with our 1 March 2007 contract, we have completed a preliminary geotechnical reconnaissance report for your property located at the northeast corner of Sierra Vista Way and Sessions Road in Lafayette, California. It is our understanding that consideration is being given to improving the property with a new single family residence with an attached garage.

The purposes of this project were to develop reconnaissance level information regarding the geologic and geotechnical conditions of the site and to provide preliminary opinions regarding the suitability of the property for the proposed project.

SCOPE OF WORK

Our scope of work has included: review of published soil and geologic maps of the area in our files; observations of the site conditions; review of the preliminary development plans; preparation of a reconnaissance level geologic map; and preparation of this summary report of findings. This report presents the results of our field and offices studies and preliminary conclusions and recommendations pertaining to the engineering geologic and geotechnical engineering aspects of the proposed project.

Evaluation or identification of the presence of hazardous materials at the site was not requested and is beyond the authorized scope of this project.

SITE DESCRIPTION

The project site is located on the northeast corner of Sierra Vista Way and Sessions Road in Lafayette, California (Figure 1). The property is bordered to the west by Sierra Vista Way and to the north, east, and south by developed residential property. The Contra Costa County plat map shows the property as Lot 66, Tract 5332. This map shows Sessions Road passing through the property. The preliminary development plans show a 50-foot wide easement for this existing road. It is our understanding that the remainder of the lot on the west side of Sessions Road is not under consideration for development at this time.

The project site consists of an undeveloped hillside lot which slopes moderately uphill to the north. The site is located near the base of a north-south trending ravine that serves as a natural drainage for the hillside directly upslope from the property. The project site is vegetated with redwood, oak, and pine trees and natural grasses.

On the lower portion of the property, there is a stacked concrete rubble retaining wall and a graded pad below the wall (Photo 1). This wall is apparently part of the lot development on the adjacent property at 1139 Sierra Vista Way. These improvements appear to extend approximately ten feet onto the subject property.

PROJECT DESCRIPTION

We understand that it is currently proposed to construct a new two-story single family residence with an attached two-car garage on the north side of the home. A new driveway is proposed to extend off Sessions Road to the garage area.

SOIL AND GEOLOGIC CONDITIONS

SURFICIAL SOILS

The surficial soils in the vicinity of the property have been mapped by the USDA Soil Conservation Service as belonging to the Alo clay 15 to 30% slopes (SCS, 1977). The Alo clay is a well-drained soil that forms on upland areas underlain by sandstone and shale bedrock. Runoff is medium and the hazard of erosion is moderate where the soil is bare. These soils classify as low plasticity clays (CL) which have a high shrink-swell potential.

REGIONAL GEOLOGY

The generalized bedrock geology of the greater Lafayette area has been mapped by several geologists (Saul, 1973; Wagner, 1979; Dibblee, 1980, Haydon,1995; Crane, 1995; and Dibblee, 2005). Maps by these geologists suggest that the property may be underlain at depth by Pliocene age non-marine sediments (Figure 2). Saul (1973) describes these sedimentary bedrock materials as consisting of a complex sequence of conglomerate, sandstone, and siltstone with lesser amounts of limestone and tuff. This descriptions is consistent with the materials exposed in the road cuts just north and above the project site (Photos 2, 3, and 4).

On a regional basis, the bedrock materials in the area have been folded into a series of broad northwest trending synclines and anticlines. These structural folds in the bedrock have been offset by a series of north/south trending presently dormant faults. No active or dormant faults have been mapped at the property, however Crane (1995) and Haydon (1995) show a dormant fault less than a mile to the east of the property. Crane (1995) also maps the bedrock materials near the property as striking to the northwest and dipping fairly steeply (50-60 degrees) to the southwest.

LANDSLIDES

The U.S. Geological Survey has developed regional landslide features maps for much of the greater San Francisco Bay Area. The landslide features map for the greater Lafayette area does not show any landslide features at the property (Nilsen, 1975). However, Nilsen does map a small landslide feature in the upper reaches of the swale directly above the property.

The California Geological Survey (formerly the California Division of Mines and Geology) has also developed a regional landslide and related slope-failure features map for much of the central portion of Contra Costa County, including the town of Lafayette (Haydon, 1995). This map shows the property as being located on the lower portion of a large landslide deposit which extends upslope into the swale area along Sessions Road (Photo 2).

SEISMICITY

The project site is located within the greater San Francisco Bay Area which is recognized as one of the more seismically active regions of California. The seismic activity of the greater Bay Area results from the complex movements along the transform boundary between the Pacific Plate and the North American Plate. Studies have shown that Pacific Plate is slowly moving to the northwest relative to the more stable North American Plate at an average rate of about 49 mm/yr (Page, 1992). The differential movements between the two crustal plates caused the formation of a series of active fault systems within the transform boundary. The transform boundary between the two plates extends across a broad zone of the North American Plate within which right lateral strike-slip faulting predominates. In this broad zone, the San Andreas fault accommodates less than half of the average total relative plate motion. Much of the remainder in the greater San Francisco Bay Area is distributed across the Calaveras, Hayward, Concord-Green Valley, West Napa, Rodgers Creek, and Greenville faults.

The site is not located within an Earthquake Fault Zone for active[1] faults as designated by the State Geologist (CDMG, 1993 and Hart and Bryant, 1997). The active Calaveras fault system has been mapped approximately 8 kilometers southeast of the property (CDMG, 1998). Some of the active faults systems which could induce strong ground shaking at the site include the Concord-Green Valley fault, Greenville fault, Concord-Green Valley fault, Hayward fault, West Napa fault, Rodgers

[1]Earthquake Fault Zones have been delineated by the California Geological Survey around all known active faults throughout the State. A fault is defined as being active if it exhibits evidence of surface rupture due to faulting within the last 11,000 years (Holocene time). The land within EFZs is believed to have an elevated potential for experiencing surface rupture due to faulting. Property owners within these zones can be required to demonstrate that new structures are not located on top of a trace of an active fault.

Creek fault, and the San Andreas fault. These active faults and their distances from the site are presented below (CDMG, 1998).

Distances from Site to Known Active Faults		
Fault	Fault Type (CBC, 2001)	Distance from site
Calaveras	Type B	8 km southeast
Concord-Green Valley	Type B	10 km northeast
Hayward	Type A	11.5 km southwest
Greenville	Type B	17 km northeast
Rodgers Creek	Type A	29 km northwest
West Napa	Type B	32 km northwest
San Andreas	Type A	42 km southwest

A large magnitude earthquake on any of these fault systems has the potential to cause significant ground shaking at the site. The intensity of ground shaking that is likely to occur at the property will generally be dependent upon the magnitude of the earthquake and the distance to the epicenter. In general, the greater the distance to the epicenter, the lesser the intensity of the ground shaking that is anticipated to occur at the site.

SITE OBSERVATIONS

ARTIFICIAL FILL

Our reconnaissance level observations revealed that moderate amounts of grading has occurred on the property. The age of the grading is not known, however it appears to have been done in two stages. The past grading on the property was associated with the creation of Sessions Road and the construction at the adjoining property at 1139 Sierra Vista Way.

The construction of Sessions Road across the property required placement of fill to establish the desired grades for the road. The fill is estimated to range between 1 and 5-feet thick along the roadway (Photo 5).

A minor amount of artificial fill was also placed along the east side of the property. This fill was apparently associated with the construction of a stacked concrete rubble retaining wall near the eastern property line. This retaining wall was apparently constructed by the adjoining property owner in order to increase the size of the back yard area (Photo 1). The soil materials excavated during construction of the retaining wall were placed as fill on the slope above the retaining wall (Photo 6).

SOIL AND BEDROCK MATERIALS

We did not observe outcrops of bedrock on the property. Therefore, the composition of the underlying bedrock is not known. However, published geologic maps of the area indicate that the bedrock at the site composed of fluvial claystones, sandstones, and conglomerate. This mapping is consistent with the materials exposed in the road cut along Sessions Road directly above the property (Photos 2, 3, and 4).

The surficial soils exposed in the areas, not impacted by previous grading, consisted of a dark brown silty clay with minor amounts of sand. This type of soil generally classifies as a low plasticity clay (CL) which likely has a high expansion potential.

Our observations suggest that natural residual soils in the proposed building envelope are deposits of colluvium, possibly consisting of slope wash that originated from the natural drainage ravine above the site.

LANDSLIDING

Landslide features maps by the US Geological Survey and the California Geological Survey indicate the presence of landslide debris in the ravine above the project site. Mapping by Nilsen (1975) shows a small landslide feature in the upper reaches of the ravine above the property. Mapping by Haydon (1995) indicates that the property is located within the lower reaches of the landslide deposit in the ravine. This landslide feature is shown to extend approximately 800 feet upslope above the property.

Our observations of the road cuts in the ravine directly above the property indicate that much of the landslide deposit identified by Nilsen (1975) and Haydon (1995) was been removed during the grading of Sessions Road (Photos 2, 3, and 4). Therefore, these landslide features above the property are judged to have a low potential to impact the property.

Furthermore, we did not observe readily identifiable evidence of recent landslide activity at the property. The section of Session Road which passes through the property appeared to be in good shape and does not exhibit evidence of slide related distress. The dense growth of tall redwood trees in the upper reaches of the property appear to be relatively stable and do not show evidence of slide related movement.

CONCLUSIONS

GENERAL

It is our opinion that, from a geotechnical engineering and engineering geology standpoint, that it feasible to develop the property as proposed, provided that the recommendations of this report are adhered to in the future stages of the project. Our preliminary work suggests that site is suitable for construction of the proposed single family residence. Successful development of the site will require site specific remedial measures as discussed in the following sections. It is important to note that the opinion in this preliminary report are subject to confirmation by an in-depth site specific geotechnical investigation for the lot. The site specific geotechnical investigation should include

geotechnical borings or exploratory test pits, laboratory testing of the materials recovered from the borings or test pits, engineering analyses, and site specific geotechnical recommendations for the proposed project.

GEOTECHNICAL CONSIDERATIONS

Soil Conditions

Surficial Soil

The results of our work to date indicate that the surficial soils at the site consists of low plasticity clays (CL) which have a high expansion potential. These types of soils will expand when the moisture content increases and shrink upon reduction in the soil moisture content. The potential for expansion and contraction of the surficial soils should be taken into consideration in designing the foundation systems for the proposed residence and appurtenant structures.

Artificial fill

Deposits of artificial fill have been identified on the property. The artificial fill consists of road fill beneath Sessions Road and the small deposit above the retaining wall along the east side of the property. It is probable that the artificial fill beneath Sessions Road was placed under engineering observation and testing and will not require remedial measures. However, the fill above the retaining wall appears to have been loosely placed and will likely require remediation during development of the site. It is recommended that the quality of these materials be evaluated by a site specific geotechnical investigation. Fill materials which are determined to be deficient should be removed and replaced with properly compacted fill as part of the site development process.

Landsliding

Regional landslide features maps by the US Geological Survey and the California Geological Survey identified deposits of landslide debris in the ravine above the property. The map by the California Geological Survey indicates that the landslide debris extends beneath the proposed building site. Our observations suggest that much of the landslide deposit in the ravine above the property was likely removed during the grading of Sessions Road. It is our opinion that the past grading has significantly reduce the potential for landslide debris in the ravine above the property from impacting the property. Furthermore, we did not observe readily identifiable evidence of recent landslide activity at the property.

It is also recommended that a detailed subsurface exploration program be implemented to evaluate the actual soil conditions beneath the property. The subsurface exploration program should focus on evaluating the possible presence of landslide debris beneath the building site and recommendations for remedial measures if needed.

Seismic Hazards

Fault Rupture

The site is not located within an Earthquake Fault Zone for active faults as defined by the State Geologist. The nearest mapped active fault is located approximately 8 kilometers southeast of the site. Therefore, it is our opinion that the potential for surface rupture due to faulting at the site is remote.

Ground Accelerations

Due to the proximity of the site to the numerous active fault which traverse the greater Bay Area, it is likely that the property will be subjected to the effects of a major earthquake during the design life of the proposed residences. These are likely to consist of significant ground accelerations. These ground movements may cause damage to the proposed structures. Therefore, the structural systems for the new building should be designed in accordance with the requirements of Chapter 16 of the 1997 Uniform Building Code for Seismic Zone 4 conditions.

Liquefaction

Due to the clayey nature of the soils underlying portions of the site, it is our opinion that the potential for liquefaction on the property is remote.

Surface Drainage

Control of surface water passing through the property will be an important factor in the future development of the property. We have identified a large drainage area uphill from the property which funnels through a road-cut notch onto Sessions Road and then passes across the property.

It is our opinion that during a major storm event, it is probable that water and debris could overflow the east side of Sessions Road and cross the project site. It is our opinion that successful development of the property would be contingent upon long-term control of water entering the site from above.

LIMITATIONS

The conclusions and recommendations of this report are based upon information provided to us regarding the proposed improvements, our reconnaissance level observations of the property, and professional judgement. We have employed accepted geotechnical engineering and engineering geologic procedures, and our professional opinions and conclusions are made in accordance with generally accepted geotechnical engineering and engineering geologic principles and practices. This standard is in lieu of all warranties, either expressed or implied.

It is the owner's responsibility to make sure that the recommendations contained in this report are brought to the attention of the architect, engineers, and contractors working on the project. This information should also be conveyed to future owners of the property. Furthermore, it is the owner's responsibility to make sure that these recommendations are carried out during the geotechnical investigation, design and construction phases of the project.

Site conditions described in the text are those existing at the time of our last field exploration and reconnaissance in May, 2007 and are not necessarily representative of the site conditions at other times or locations.

The findings of this report should be considered valid for period of three years unless the conditions of the site change. After a period of three years, we should be contacted to review the site conditions and prepare a letter regarding the applicability of this report.

The evaluation or identification of the potential presence of hazardous materials at the site was not requested and is beyond the scope of this project.

If you have any questions regarding this report, or if we may be of further service, please contact us at your convenience.

Yours truly,

CAL ENGINEERING & GEOLOGY, INC.

Mitchell Wolfe, E.G., P.G.
Principal Geologist

Norman Joyal, P.E., G.E.
Principal Engineer

REFERENCES

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Nilsen, T. H., 1975, Preliminary photointerpretation map of landslide and other surficial deposits of the Walnut Creek 7.5' quadrangle Contra Costa County, California: U.S.Geological Survey Open File Map 75-277-55, map scale 1:24,000.

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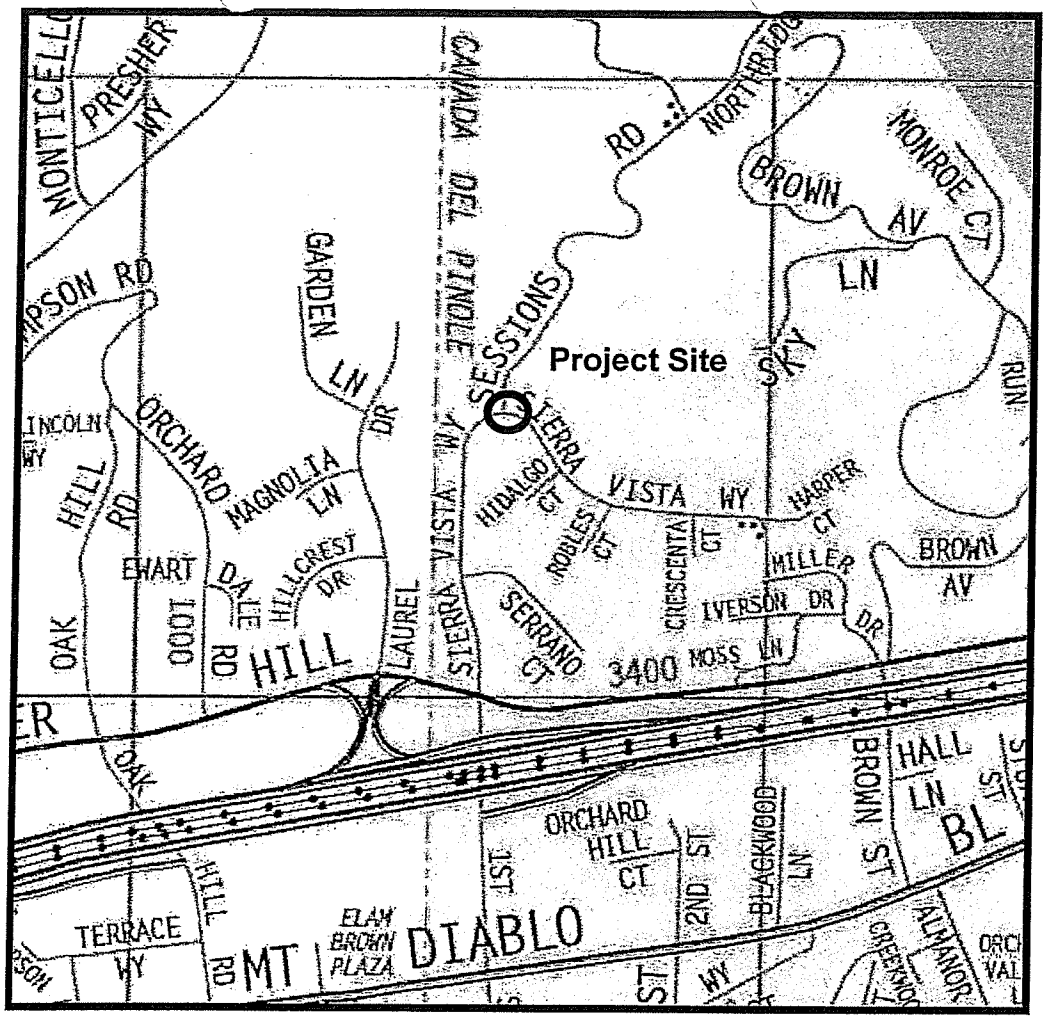
APPENDIX A



NORTH
(No Scale)

Reference: Thomas Bros. Maps, Alameda and Contra Costa Counties, 2002

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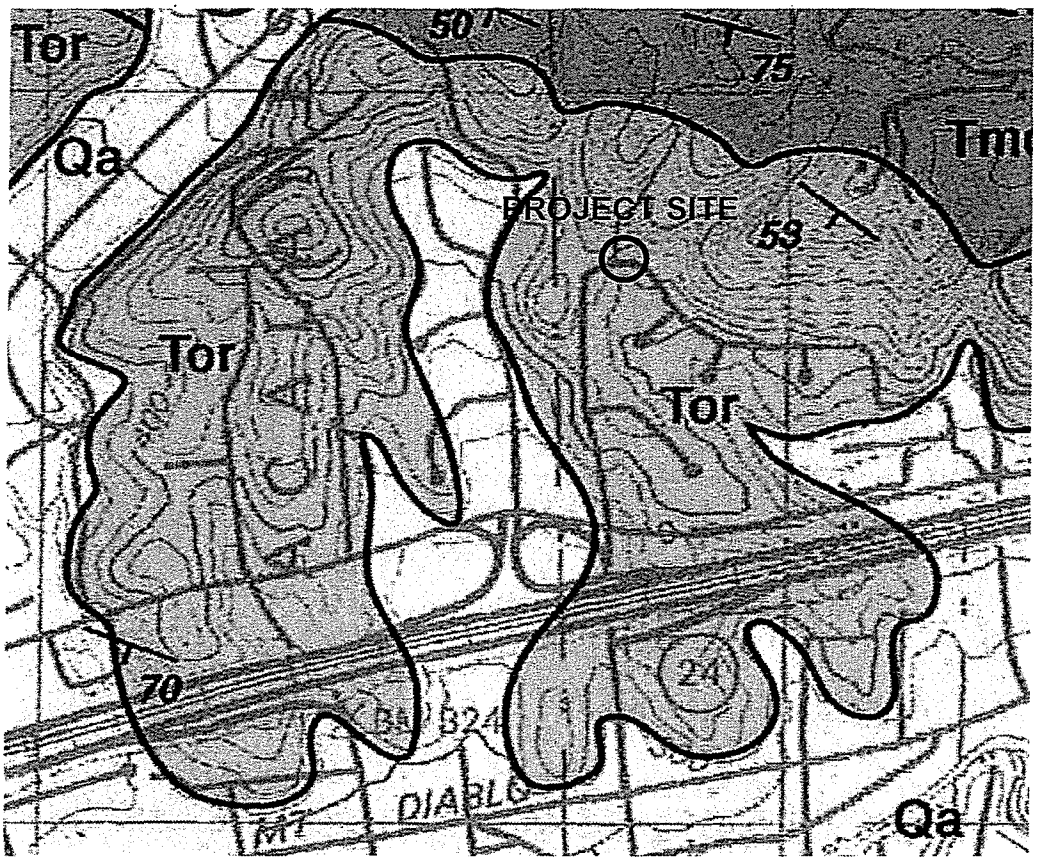
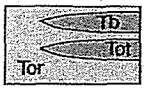
VICINITY MAP	
Holt Property, Sessions Road, Lafayette, California	
File No. 070580	**Figure: 1**



NORTH
(No Scale)

Reference: Dibblee, 2005



ORINDA FORMATION

Terrestrial clastic, weakly lithified; age Pliocene to late Miocene

Tor *Pebble conglomerate of mostly Franciscan detritus, sandstone and claystone, interbedded, gray, stream-laid*

Tb *Basalt*

Tot *Tuff breccia, gray-white, rhyolitic, massive to vaguely bedded*

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GEOLOGY MAP	
Holt Property, Sessions Road, Lafayette, California	
File No. 070580	**Figure: 2**

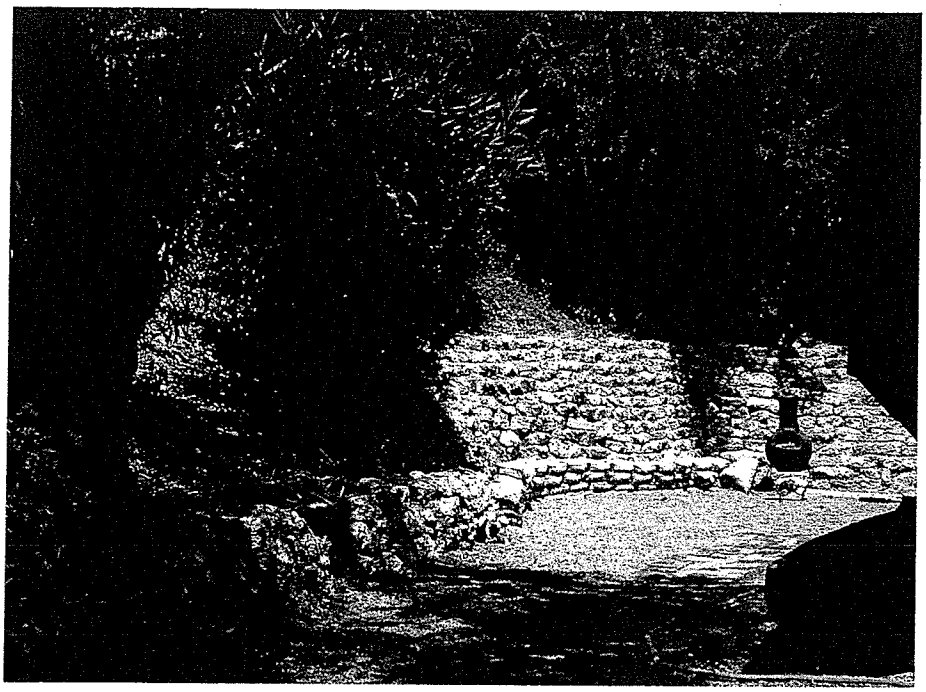

Photo #1 View of the stacked retaining wall along the east side of the site and in the backyard of the adjoining property.

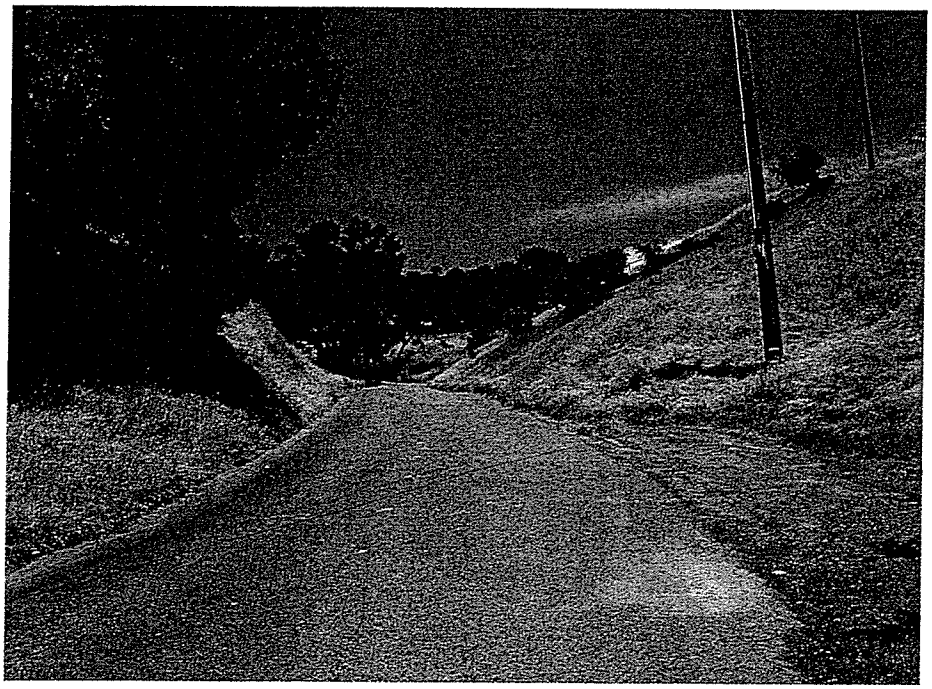

Photo #2 View looking north up the ravine above the project site. Note the steep road cuts along Sessions Road.

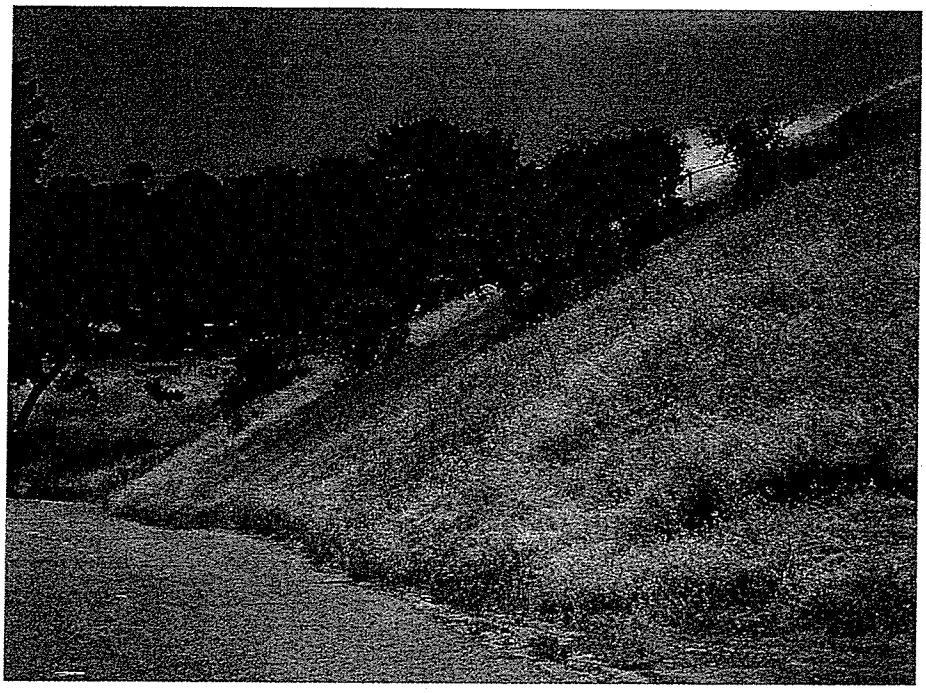

Photo #3 View of the road cut in the ravine directly above the project site.

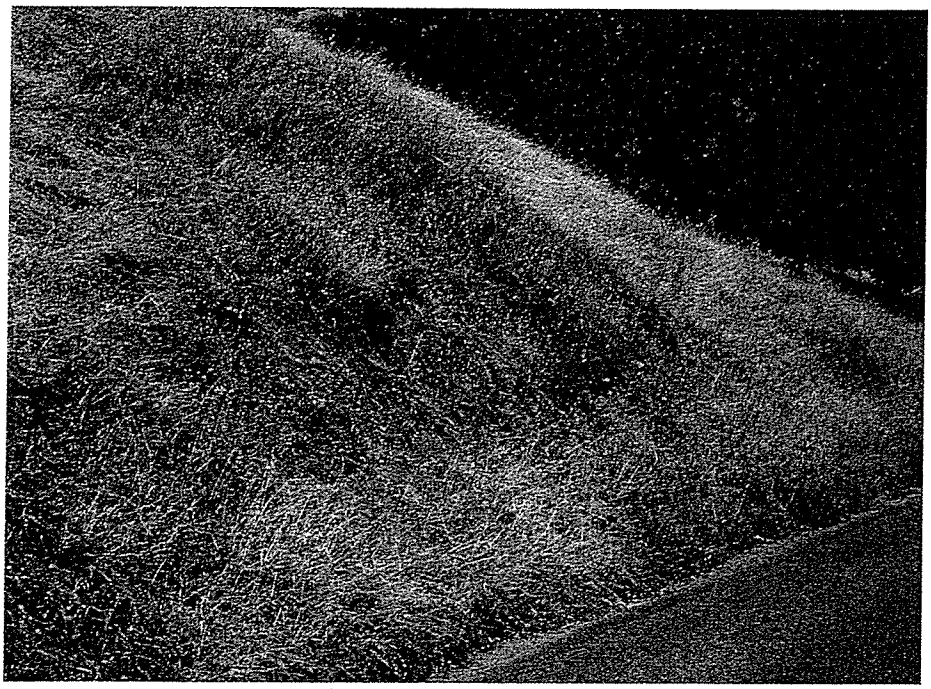

Photo #4 View of the road cut in the ravine above the project site.

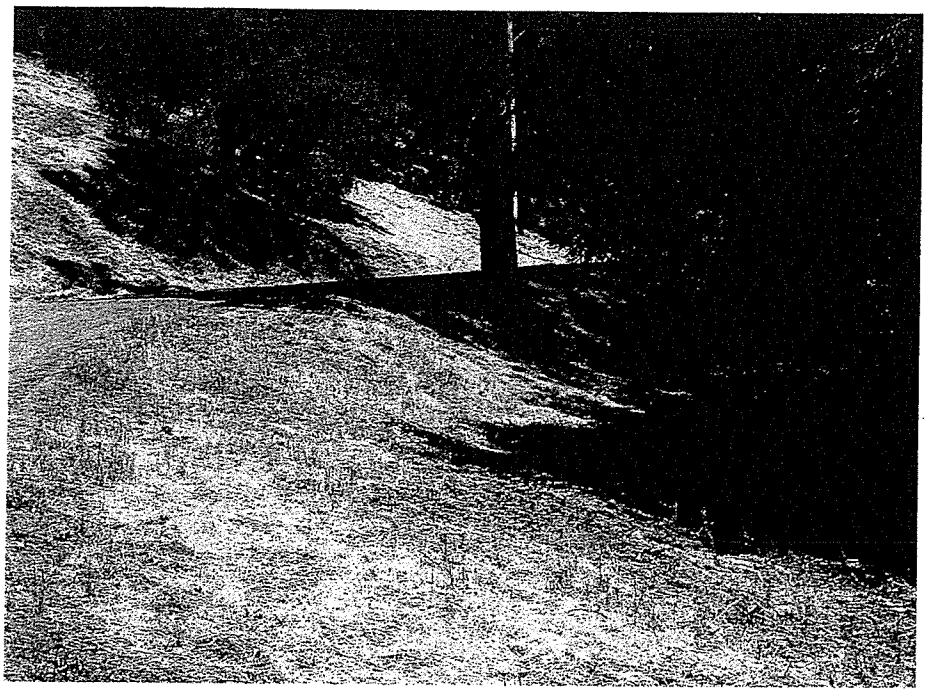

Photo #5 View of the road fill along the east side of Sessions Road.

Photo #6 View of the small mounds of undocumented fill above the retaining wall along the east side of the property.

LAW OFFICE OF DAVID J. BOWIE
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Facsimile (925) 609-9670
Dave@bblandlaw.com

May 29, 2008

Lafayette Planning Commission
c/o Christine Sinnette
City of Lafayette,
3675 Mt Diablo Blvd, Suite, 210
Lafayette, CA 94549

Re: Lot 66/Sierra Vista Way, Lafayette, CA
HDP 47-07

Dear Planning Commission Members:

Approximately one year ago, Dick Holt submitted an application for Design Review approval for construction of a new single family home on Lot 66 at Sierra Vista Way in Lafayette. The application was controversial and a final decision had yet to be made at the time the Permit Streamlining Act necessitated that some action be taken. Mr. Holt withdrew the application so that he could better address a number of concerns which had been voiced by Planning Commission Members. The application has now been resubmitted and will be considered at the Planning Commission hearing set for June 5, 2008.

At the time of the initial application, a substantial amount of time was expended in addressing the issue as to whether or not the right of way easement consisting of Sessions Drive in some fashion extended across the entirety of the subject property—Lot 66, The City Attorney has quite properly pointed that Sessions Drive is private and that easement disputes are private matters to be resolved amongst the private property owners affected. I had previously pointed out to the City Attorney, staff, and this Commission that there was no legal easement which adversely impacted the entirety of Lot 66—although obviously a portion of the Lot was impacted by an acknowledged right of way easement. Since this particular easement issue was already addressed at the time of initial application and is not a matter for determination by this Commission, further discussion of the legal issue is essentially irrelevant.

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It has come to my attention that Carol Hehmeyar and other neighbors apparently persists in raising this issue of the legal impact of a right of way easement across Lot 66. This letter is designed to provide Commissioners with the legal background to my professional opinion that the easement issue is irrelevant to this particular application. As a practical matter, the information of this letter is intended as background since I whole heartedly agree with the City Attorney and her conclusion that the Commission need not consider this issue at all.

The only way to understand the impact of easements upon this particular Lot 66 is to thoroughly review the record title in the context of the applicable law. The following is a summary of both:

A. Grant Deed—Sessions to Western Title recorded February 9, 1966. This document is the first significant document for purposes of analysis. It is a grant deed that includes a description of "Parcel 12". Parcel 12 is Lot 66. The conveyance specifically "excepts" from said Parcel 12 a non-exclusive right of way as an appurtenance to the remaining lands of the grantor or any portion thereof. This document actually makes it clear that Lot 66 is greater than whatever right of way might burden the particular lot by virtue by of use of the word "except".

B. Indenture Agreement—The single most important document in the chain of title is an agreement between Western Title, Sessions, and Alberdan Inc recorded January 31, 1967 in Book 5296 at Page 435. That document indicates as its purpose the elimination of various rights of way and the creation of new rights of way over a 50 foot wide strip of land known as Sessions Drive as described by metes and bounds "...and over Lot 66..". The indenture makes clear that all prior rights are eliminated with a single 50 foot wide road created as described by metes and bounds and over Lot 66.

   Subparagraph B of the Indenture has Sessions granting to Western Title the rights of way which were excepted from Parcels 1 and 12. Therefore, at this subparagraph of the indenture, easements over Lot 66 are simply eliminated.

   Subparagraph C of the Indenture specifically grants to Western Title a roadway easement which includes a roadway over Lot 66. Subparagraph D grants to Western Title the rights to Western Title to alter the location, width, and grade of the easement described and makes specific reference to the "strip of land on Lot 66 known as Sessions Drive".

   Paragraph 1 of the Indenture reaffirms the right to alter the location, width and grade of the entirety of Sessions Drive, "...including that strip of land over Lot 66 known as Sessions Drive...". The final paragraph of paragraph 1 of the Indenture confirms that the various easements referenced in other parts of the Indenture, including any easements over Lot 66, are easements on or over the underlying strip of land known as Sessions Drive. That same paragraph specifically provides that whenever the location of Sessions Drive is altered as provided for in the Indenture, the easements are thereby altered in the same way.

Paragraph 6 of the Indenture speaks in terms of landscaping on Lot 66 "...to the extent not inconsistent with Western's plans for the use and improvement of Lot 66."

The repeated references to "strip of land" and the context make clear that less than the entirety of Lot 66 was and is to be subject to the right of way easement and, further, that the precise location of the right of way would be up to Western Title—as well as the precise width and grade.

C. Grant Deed---Sessions to Pitchford recorded January 31, 1967 in Book 5296 at 440. Parcel 3 of this particular grant refers to a non-exclusive easement over Lot 66. This reference has sometimes been cited for the proposition that all of Lot 66 was subject to easement requirements. This Sessions grant deed to Pitchford, however, cannot possibly have created any easement which encompasses the entirety of Lot 66. The most apparent reason is that Sessions had already grant deeded to Western Title rights of easement and those rights and easements were and are limited to a 50 foot wide strip of land subject to further adjustment as Western Title might deem appropriate

D. Most recently, the Hehmeyers have claimed that they and their immediate neighbors collectively have easement rights that are not particular to time and are clearly more inclusive than the limited rights which obviously exist as a matter of record title. The Hehmeyers, however, are incorrect in their contentions.

E. Petar Jakovina grant deeded property to Howmark Inc., a California Corporation, in 1998. I gather the Howmark deed was a predecessor deed to the Hehmeyer's deed. That particular grant deed was recorded as Document No. 98-0049049-00. The legal description grants to Howmark all four parcels of Parcel Map MS 502-94. The grant deed to Howmark included as Parcel 2 a non-exclusive easement which impacts Lot 66. That particular non-exclusive easement, however, refers to the easement created by Parcel Map MS502-94. It might be noted that there is also a Parcel B as a part of that same grant. Parcel 3 is a further non-exclusive easement for ingress and egress and it cross-references the Sessions to Pitchford deed recorded January 31, 1967 in Book 5296.

The Parcel 3 reference to a non-exclusive easement cannot be an easement as to the entirety of Lot 66 because it is derivative from the Pitchford easement discussed above. In both cases a greater estate cannot be granted than the estate owned at the time of grant construction which exceeds the grant to Western Title simply cannot be countenanced.

The Parcel 2 easement of the Howmark Inc grant deed is also non-exclusive and is based upon MS 502-94. Unfortunately for the Hehmeyers and their neighbors, however, Parcel Map MS 502-94 on its face references a non-

exclusive access and utility easement at Book 5054, page 439. That particular reference is the original grant deed from Sessions to Western Title Guaranty Company. It was recorded as Instrument No. 10509 on February 9, 1966. The problem is that the Indemnity Agreement was later recorded and the Indemnity Agreement specifically reconveyed all prior easements of all kinds and sort with the same to be recreated as Western Title deemed appropriate pursuant to the terms of that agreement. In short, the reference in MS 502-94 to a non-exclusive easement which in turn is picked up in the grant deed to Howmark is an inaccurate reference as it was superseded by later events which recreated the 50 foot easement discussed above and at issue in this matter.

For what it is worth, I have reviewed these matters with Schell and Martin, the engineering firm which created Subdivision MS 502-94. That firm agrees with my interpretation and confirms that the reference is actually inaccurate.

From the foregoing it is clear that any actual grant must be limited to a non-exclusive right of way of not more than 50 feet in width. A subsequent grant deed from Howmark to and of the current neighbors could not increase the estate beyond that owned at the time the grantor executed the grant deed. In other words, and quite basically, the neighbors' contentions that they hold greater easement rights encompassing the entirety of Lot 66 are simply not supported by the facts or record.

Regardless of the foregoing discussion regarding record title and rights conveyed, California Black Letter Law requires that any non-exclusive grant of easement be construed so as to encumber only a lesser estate than fee title because the fee owner is always entitled to utilize his real property in any fashion so long as there is no unreasonable interference with rights of easement owners. Thus, California law has explicitly rejected the contention that easement owners have the automatic right to utilize the full extent of any easement if it is subject to an express grant. In this instance, the neighbors have contended that they are entitled to use the entire 50 foot width of easement (or indeed the entirety of the lot) simply because they are holders of an express grant. What the courts have stated, however, is that there is no right granted an owner of an easement to utilize the width of the grant when it is not required for access. As a consequence, it has been expressly held that the owner of the servient tenement may obstruct portions of the granted easement that do not interfere with reasonable use of the road. The particular case to which I have made reference was actually decided in 1995. In the balance of its holding, the court noted that the grant of easement does not convey a right to use it beyond what is reasonably required for its purpose and if the entirety of the easement is not reasonably required for road use, the owner of the servient tenement may use or block the remaining portion. In the particular case, the easement holder had used only 15 feet of a 52 foot wide non-exclusive easement for ingress and egress. The court held that added pavement through the entire width was simply not reasonably necessary for the enjoyment of the easement and considered it an undue burden on the servient tenement that had to be removed.

In reality and in contrast to the neighbors' claims, the access easement is no greater than 50 feet wide and probably is in fact confined to the paved section of roadway. Since the Holt

development does not in any fashion impinge even on the 50 foot wide claim of easement, there can be no basis for objection to placement of the proposed home and its development. The limitation of the easement to less than the entirety of the lot is supported by California case law and the record documents which make clear that less than the entirety of the lot is subject to easement.

The whole application should be considered on its merits without regard to the easement issue. Since the application satisfies all City requirements, it should be granted.

Very truly yours,

David J. Bowie

Cc: Christine Sinnette
Dick Holt

Jeffrey P. Harmon
8 Sessions Road
Lafayette, CA 94549

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CITY OF LAFAYETTE
PLANNING DEPT.

June 5, 2008

City of Lafayette
Planning Services Division
3625 Mt. Diablo Blvd, Suite 210
Lafayette, CA 94549-11968

Reference HDP47-07 Richard Holt (Applicant and Owner)

Dear Commissioners:

I am a long time resident of Lafayette and recent buyer of the property at 8 Sessions Road. My property is located on top of the knoll that is adjacent and to the North of Lot 66. I am writing to express my strong opposition to the proposed development of Lot 66 by Commissioner Holt as follows:

- Such development is in violation of my title agreement which clearly indicates that Lot 66 is part of the access easement for Sessions Road
- The proposed development would greatly reduce valuable watershed that is critical for the stabilization of the knoll upon which my property rests. This knoll has been subject to landslides in the past and undermining the base watershed would exacerbate the problem.
- The proposed development is not in compliance with setback regulations relative to the easement for Sessions and Northridge residents.
- Building a two-story house with a drive-way on to a very steep, blind roadway will create extremely dangerous traffic conditions. Since moving into the property one month ago, I have already witnessed 3 near misses on that part of the road.
- The development is inconsistent with the applicable goals and policies of the general plan which, among other things, calls for the maintenance of a semi-rural look and feel. Development of a large two-story building on a small sliver of easement property will promote a congested urban-like look that is completely out of character with the neighborhood.
- The development further eliminates cherished open space and the scarring of the hillside will create a highly negative visual impact.
- The development infringes on the privacy of residents located at 1139 Sierra Vista and elsewhere throughout the neighborhood. The proposed outdoor living areas encroaching on Sessions road will further create safety issues for both residents and motorist gearing up to get up that steep hill.

Due to the late notice and late erection of the story poles on the proposed development site I have not had adequate time to fully study and respond to the many complex issues raised by this ill-conceived project. I have, however, had time to review the City of Lafayette Staff Report on this matter and took note of the following:

The city attorney and one Commissioner Holt's attorney have suggested that the Commission could ignore the easement issues raised by some of my neighbors and have the matter settled in Civil Court. I believe doing would be imprudent considering that any further progress on this matter (such as allowing for further trimming or cutting down of trees) could cause irreparable harm and is relevant to the setback issues noted above. The commission is on notice that allowing for the reduction of critical watershed at the base of a knoll that has experienced several landslides would subject the Commission (and its individual staff members) and the City of Lafayette to substantial liability. Furthermore, it is my understanding that such watershed (specifically, the redwood grove) was mandated as a pre-condition to the development of Northridge in order to help stabilize the knoll.

Lastly, I must express my deep concern about the significant conflict of interest and breach of fiduciary duty issues raised by this proposal. The very idea that a Commissioner would use the knowledge and associations garnered from his post on the Commission to turn a fast buck on property he knew was easement burdened reeks of impropriety. He and the rest of the Commission are supposed to be protecting the citizens of Lafayette from such shenanigans, not promoting it!

Sincerely,

Jeffrey P. Harmon

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JUN 05 2008
CITY OF LAFAYETTE
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649 Los Palos Drive
Lafayette, CA 94549
June 5, 2008

Mr. Mark Mitchell, Chair
Lafayette Planning Commission
City of Lafayette
3675 Mt. Diablo Blvd., Suite 210
Lafayette, CA 94549

Subject: HDP47-07 Richard W. Holt (applicant); Lamorinda Properties, LLC (owner)

Honorable Chair Mitchell and Ladies and Gentlemen of the Planning Commission:

Thank you for the opportunity to comment on this application. I have the following four concerns:

- per the Planning Commission's ability to make the findings for 6-2071, the privacy and visibility impacts of this project on the downhill neighbor appears to be not only significant but an embarrassment.

- the planting of the 21 redwood trees on Lot 66 were, I believe, a Condition of Approval for the Northridge subdivision done by Wally Costa and Ray Lundgren, in order to provide for an environmentally pleasing and technologically effective way to soak up the water and to help stabilize the hill slope. The Commission needs to be provided a copy of the Northridge Conditions of Approval so as to determine whether the redwoods are included.

- This lot 66 as shown on the Landslide Hazard map within the Lafayette General Plan 2002 appears to be worrisome. There are four categories of landslide hazard lands shown on this chart, ranging from "flat-lying areas not in the path of slides" to the fourth category, "Areas of known slides and ground highly susceptible to sliding." The streets in question and Lot 66 appear to fall within this latter category.

- The Earthquake Hazard map contained within the Lafayette General Plan 2002 appears to be equally worrisome. There are few high hazard areas shown in Lafayette and this appear to be one of them. This lot appears, from what I can determine, to fall within the category of highest concern, that labeled "Approximately located Fault Locations" and in one additional category, that labeled "Concealed Fault Locations". These factors should relate to the presence or removal of the many redwood trees as stabilizing factors, I should think.

Thank you for your dedication to sound development in Lafayette and to Lafayette's obligations to surrounding neighbors in its consideration of applications. I look forward to your resolution of these very difficult problems.

Very truly yours,

Lynn H. Hiden

Sinnette, Christine

From: Srivatsa, Niroop
Sent: Wednesday, June 04, 2008 11:38 AM
To: Chastain, Tom; Ateljevich, Jeanne; Mitch, Mark; Humann, Rick; Curtin, Patricia; Lovitt, Will; Merideth, Ann; Wolff, Greg
Cc: Sinnette, Christine
Subject: FW: HDP47-07 RICHARD W. HOLT

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From: Carla Frolich [mailto:carla@wishboxevents.com]
Sent: Wednesday, June 04, 2008 11:30 AM
To: Planning Commission
Subject: HDP47-07 RICHARD W. HOLT

To whom it may concern,

I am a homeowner at 1102 Sierra Vista Way which is directly across street from where Mr. Holt is proposing to build a home.

I would once again like to write my opposition in building of any structure on the easement. There are almost 2 dozen old redwood trees (over 40 years) that were planted for the very purpose to act as a natural retaining wall. If the trees are cut it is a disaster waiting to happen.

Thank you,

Carla and Brad Frolich
1102 Sierra Vista Way
Lafayette

Carla Frolich
Wish Box Events
www.WishBoxEvents.com
p 925 283 8330
f 925 283 8335

Professional. Personalized. Unparalleled.

Sinnette, Christine

From: Carolshinnick@aol.com

Sent: Tuesday, June 03, 2008 1:33 PM

To: Sinnette, Christine

Subject: HDP47-07 RICHARD W.HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING

I am writing in response to your notice dated May 21, 2008 re: above subject. I live in the Sierra Vista Tract at 1106 Sierra Vista Way. My home is located on Sierra Vista just across the street from Sessions Rd. I am opposed to the construction of the large home that is being proposed by Mr. Holt for several reasons. They are: Sessions Rd. is a very dangerous street. It is very steep as you come down the street and is not wide enough to accommodate additional traffic. There have been two accidents over the past years wherein cars skidded and ended up in my front yard. The proposed size of the house is too big for the lost size as well as does not fit in with the majority of the single story ranch style residences on Sierra Vista. Also, the proposed height of the house will invade my privacy as the views from the second and third floors will look right onto the entire front of my house.

I appreciate your consideration in reviewing my concerns and request a disapproval vote of the planning commission regarding Mr. Holt's application.

Sincerely,

Caroldean Shinnick
1106 Sierra Vista Way
Lafayette 94549

Get trade secrets for amazing burgers. Watch "Cooking with Tyler Florence" on AOL Food.

Sinnette, Christine

From: Sinnette, Christine
Sent: Tuesday, June 03, 2008 11:17 AM
To: 'Jeff Swarts'
Subject: RE: HDP47-07 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING

Mr. Swarts,

I have responded to your questions as part of the public record. They are included in the Planning Commission staff report. You can view the staff report at the following address on the City's website.

http://lafayette.waterware.com/docushare/dsweb/View/Collection-144

Christine Sinnette
Senior Planner

csinnette@ci.lafayette.ca.us
(925) 299-3241 Fax: (925) 284-1122

From: Jeff Swarts [mailto:swartsco@yahoo.com]
Sent: Monday, May 26, 2008 5:42 PM
To: Sinnette, Christine; Planning Commission
Subject: HDP47-07 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING

May 26, 2008

TO: Lafayette Planning Commission
Christine Sinnette/Senior Planner, Lafayette Planning Dept.

RE: HDP47-07 RICHARD W. HOLT (APPLICANT), LAMORINDA PROPERTIES (OWNER), R-10 ZONING

Please include this letter in the Commission's packet for the Public Hearing, June 5, 2008.

As you are well aware I have many reservations as to the build-ability of this road easement/ lot. Since Mr. Holt's withdrawn application was first submitted a year ago, neither the Planning Dept. nor the Planning Commission have answered my questions. I will list them again with additional questions regarding the new plans. Please respond using the corresponding item #s.

1.Several of us have requested a traffic study of this intersection. You stated in your letter to me last year that it is up to the commission to request a study not the Planning Dept.

a. Have they requested a study as of yet? As you know, our concerns center around the steep grade and the narrow width of the road. We contend the road should be widened and an S curve added to lessen the grade to allow for a fire truck and emergency vehicles to ascend. Without these additions, a serious accident is likely to occur when someone is backing out of the proposed driveway while someone is coming down the hill. Refer to my June 27, 2007 email to you; item #11.

b. Why don't Mr. Holt's plans consider the driveway entrance from Sierra Vista Way instead?

2. What have you worked out between the residences up the hill and Mr. Holt who differ on the lot's original and intended purpose? As you will recall, the lot in question was designated as a formal entrance to their subdivision with an easement over its entirety, thus the reason why Mr. Holt paid well below market rate for the lot. The Planning Dept. still hasn't made it clear why and how the lot went from a dedicated easement to the uphill subdivision, and unbuildbale, to now being deemed a buildable lot. Please clarify the Planning Dept's. process and position.

3. Has Mr. Holt referenced the new 1994 map on his new application or is he still using the 1966 parcel map with all its inconsistencies? Refer June 27, 2007 email; item #14.

4. Has Mr. Holt applied for or been granted a variance to construct his proposed detached shop within the 10' property line setback rule? The plans show his shop within 2-3 feet of my property line.

5. Is the 25' road easement determined from the center of the road?

6. Is his structure still set-back an additional 10' from this right-away?

7. Are there stakes in the field where we can verify his map distances?

8. Does Mr. Holt still have second story decks protruding well into the 10' property line set-back area?

9. Mr. Holt's new plans indicate construction of a 10' tall retaining wall just 15' 8" from my master bedroom window with a two story structure and roof above that.

a. What will this giant concrete wall look like?

b. Is Mr. Holt required to specify the detailed design of this wall? The proposed wall will block all afternoon sun in my backyard.

c. Can Mr. Holt lower his home and set it more into the hillside?

10. There is an incredible amount of water that comes down through Mr. Holts lot during the wet season.

a. Has Mr. Holt submitted an adequate drainage plan?

b. What plans does the city require to mitigate damages to my property as a result of his water/drainage systems?

11. Where has the hiking trail and its parking area been relocated to?

12. a. How many square feet is the new home /shop?

b. Is it consistent with us neighbors of 1200-1800 square foot homes in the Sierra Vista subdivision?

13. How many trees does Mr. Holt plan to remove, and how many redwoods will remain?

ALL of these questions merit addressing before any decision by the Commission in regards to this project.

Please confirm receipt of this letter via e-mail: swartsco@yahoo.com
Please respond to my questions prior to the hearing date of June 5.
If the Planning Dept. is unable to answer a particular question, I submit them to the Commission for clarification.

Regards,
Jeff Swarts

LAW OFFICES OF
BEST BEST &
KRIEGER LLP

May 30, 2008

MEMORANDUM

TO: **PLANNING COMMISSION**

FROM: **CITY ATTORNEY**

RE: **CONFLICT OF INTEREST AND EXCEPTION THERETO**

A question has arisen as to whether Commissioner Holt can participate as a member of the public in discussions on his Planning Commission application regarding property that he owns. Commissioner Holt can participate in the discussions as a member of the public as long as certain procedures are followed.

As you are aware, there is a general statutory prohibition on a public official using or attempting to use his or her official position to influence a governmental decision. There is an exception for a "member of the general public" to the general statutory prohibition. An official may appear before his or her government agency as a member of the general public to represent himself or herself on matters related solely to the official's personal interest, including an interest in real property wholly owned by the official, without violating the conflict of interest laws which would otherwise apply. (2 C.C.R.18702.4.)

The Fair Political Practices Commission recently looked at this issue in 2007, to answer whether a City Council Member and Redevelopment Agency Board Member could present his or her own personal views, as a member of the public, in connection with a City Project that created the disqualifying conflict of interest. The FPPC concluded that the Council Member could address the City Council or the public at large regarding his personal views on the Project that has given rise to the conflict, so long as certain procedures are followed. (FPPC Adv. Op. I-07-059 (2007).)

The FPPC indicated that a public official may speak as a member of the general public so long as he or she discloses the economic interests giving rise to his or her conflict of interest (pursuant to Reg. 18702.5 (b)(1) and (2)) and recuses himself or herself from the vote. (Reg. 18702.5(d)(3).) He or she must then leave the dais to speak from the same area as the members of the public. The individual must identify himself or herself as a member of the general public, with no reference - explicitly or implicitly - to his or her official status and that he or she is speaking as a private citizen and is not acting on behalf of any other person or group. The official may listen to the public discussion of the matter with the members of the public.

Therefore, should Commissioner Holt desire to speak on his project as a member of the public, he will be required to disclose the conflict, leave the dais, when he speaks on the matter he must speak at the podium as other members of the public, identify that he is speaking as a member of the public, and then may listen to the rest of the discussion by sitting in the audience with the other members of the public.